

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

77-5001

UNITED STATES COURT OF APPEALS
For the Second Circuit.

In re

W. T. GRANT COMPANY,

Bankrupt,

LIEBMAN, EULAU, ROBINSON & PERLMAN,
ESQS.,

Appellant,

-against-

CHARLES G. RODMAN, as Trustee of the
Estate of W. T. Grant Company,
Bankrupt,

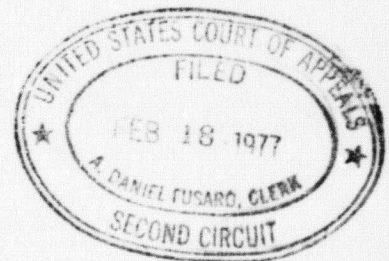
Appellee.

On Appeal from the United States District Court
for the Southern District of New York.

JOINT APPENDIX.

Liebman, Eulau, Robinson & Perlman
Appellant Pro Se
32 East 57th Street
New York, New York 10022
(212) 355-5522

Weil, Gotshal & Manges
Attorneys for Trustee
767 Fifth Avenue
New York, New York 10022
(212) 758-7800



PAGINATION AS IN ORIGINAL COPY

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NAMES AND ADDRESSES	
ATTORNEY FOR BANK TRUSTEES	
ATTORNEY FOR BANK TRUSTEES	
RECEIVED	
ATTORNEY FOR BANK TRUSTEES	BEST COPY AVAILABLE
TRUSTEES	
ATTORNEY FOR TRUSTEES	

CHANGES OF PRINCIPALS

DATE	PROCEEDINGS
10/1/75	Filed Petition under Chapter XI-322 proceedings, Trust of Children, AGGRAVATED: Case File 22-2. Returned to Bankruptcy Judge 10/1/75.
10/3/75	Filed NOTICE OF MOTION, of Bader and Bader to move the court for an order in adjudicate W.T. Grant from its present Chapter XI-322 to Chapter X-28. RET: 10/21/75. at 10:30 A.M. in room 506. f.
10/7/75	Filed Statement under Section 210 of the Bankruptcy Act. Copy to Bank. Judge.
10/8/75	Filed Order to Show Cause, why an order shall not be entered herein dismissing, for the lack of jurisdiction on the part of the District Judges of the USDJ. RET: October 10, 1975 at 2:0 P.M. in room 506. So ordered Cannella J. dated 10/8/75 f. over

FORM 5X 74-D UNITED STATES DISTRICT COURT

☐ CHECK THIS BOX IF FILING FEES WERE PAID IN FULL AT THE TIME OF FILING

Continued on page 1

DOCKET ENTRIES

- 10/8/75 Filed Debtor's Memoranda of Law in support of Motion to Transfer Chapter XI proceedings to Chapter X and appoint a receiver. Sub By: Wachtell, Lipton, Rosen & Katz. f.
- 10/10/75 Filed MEMORANDUM DECISION AND ORDER, #40240, the motion to convert the Chapter XI proceedings into Chapter X and/or to appoint a receiver is dismissed without prejudice as jurisdictionally defective. So ordered Cannella, dated 10/10/75 (Copy to Bank Judge) WACHTELL LIPTON ROSEN & KATZ, 200 Park Avenue, New York, N.Y. 10021.
- 10/14/75 Filed NOTICE OF APPEAL to the USCA by the Independent Investor Protective League and Morris L. Levy, from an order made by Hon. Judge Cannella dated 10/10/75 dismissing the proceedings brought by the petitioners to transfer this bankruptcy from Chapter XI to Chapter X of the Bankruptcy Act. Mailed Notices.
- 10/23/75 Filed Affirmation in Opposition to order to Show Cause to dismiss motion for appointment of receiver or to transfer proceedings to Chapter X of the Bankruptcy Act. Sub By: I. Walton EADER.
- 12/29/75 Filed NOTICE OF APPEAL to the USDC from the of John J. Gabcky Judge dated 11/17/75, by N.Y. Telephone Co. RET. 2/1 at 10:30 A.M. in room 506. f.
- 12/29/75 Filed Designation of Contents for inclusion in the record on appeal and statement of the issues to be presented on appeal. f.
- 12/31/75 Filed NOTICE OF APPEAL to USDC by Baltimore Gas and Electric, from the Order of Bank Judge Galgay, dated 11/17/75. RET: 2/10/76 at 10:30 A.M. in room 506. f.
- 12/31/75 Filed Designation of Contents of record on appeal and statement of issues. f.
- 1/6/76 Filed transcripts of testimony dated 10/10/75.
- 1/5/76 Filed BRIEF OF FALL-TATE MFG. CO., in opposition to order to Show Cause of W.T. Grant Co., Debtor-in-Possession. f.
- 1/6/76 Filed AFFIRMATION IN OPPOSITION, of Roy E. Pomerantz. f.
- 1/8/76 Filed BRIEF OF BALTIMORE GAS AND ELECTRIC CO., on appeal from order of Bankruptcy Judge limiting deposit for continued service. f.
- 1/12/76 Filed ORDER that the said application be and the same hereby is granted to the extent that the lease to the premises be and the same hereby is rejected and disaffirmed as at 12/9/75 etc. So Ordered Galgay, Bank. Judge dated 12/22/75. f.
- 1/15/76 Filed Stipulation and Order that the hearing on the appeal is adjourned to 3/23/76. So ordered Bonsal, J. dated 1/13/76. f.
- 1/21/76 Filed STIPULATION & ORDER, extending time to serve and file its brief till 1/27/76. etc. So ordered Metzner, J. dated 1/19/76.
- 1/27/76 Filed MEMORANDUM of Respondent-Appellee W.T. GRANT COMPANY. (RE: Baltimore Gas and Electric Co.) f.
- 2/4/76 Filed REPLY BRIEF OF BALTIMORE GAS AND ELECTRIC CO. PETITIONER-APPELLANT. By LeBoeuf, Leiby & MacRae. f.

CONTINUED ON PAGE 3.

DOCKET ENTRIES

W.T. GRANT CO.

75-3-1735

DOCKET NUMBER

DATE	PROCEEDINGS
2/20/76	Filed ORDER OF DISCONTINUANCE, So ordered Motley, J. dated 2/20/76. Copy to Bank Judge. (Baltimore Gas)
2/20/76	Filed ORDER that the order of Judge Calgay of 11/17/76, is affirmed. So ordered Motley, J. dated 2/20/76 (Baltimore Gas) Copy to Bank Judge.
2/20/76	Filed OPINION # 43920, order appealed from is affirmed in all respects. So ordered Motley, J. dated 2/20/76. (Copy to Bank Judge). (Baltimore Gas) M/N; Wachtel Lipton Rosen & Katz, 299 Park Ave, N.Y.N.Y. 10017 LeBoeuf Lamb Leiby & Mac Rae & Judge Calgay, 40 Center Street, N.Y.N.Y.
3/3/76	Filed Notice of Appeal to District court by ZARTLEG DEVELOPMENT CORP., From order of Bkcy. Judge on 12/31/75, Ret: 4/13/76 at 10:30 AM in Rm. 506. (Cinnaminson Shopping Center, Inc.) f.
3/3/76	Filed Notice of Appeal to District court by ZARTLEG DEVELOPMENT CORP., From order of Bkcy. Judge on 12/31/75, Ret: 4/13/76 at 10:30 AM in Rm. 506. (Woodcrest Homes, Inc.) f.
3/3/76	Filed Designation of contents for Inclusion in the Record on Appeal & Statement of Issues. f.
3/3/76	Filed Counterdesignation of Issue Presented On Appeal. f.
3/3/76	Filed Notice of Appeal to USCA by BALTIMORE GAS & ELECTRIC CO., from opinion of Motley J. dated 2/20/76. m/n. f.
3/8/76	Filed Consolidated Designation of Contents of Record on Appeal.
3/15/76	Filed ORDER adjourning the appeal to 5/25/76. So ordered Pollack, J. dated 3.9.76, f.
3/16/76	Filed ORDER adjourning the appeal to 5/4/76. So ordered, Criesa, J. dated 3/16/76. f.
3/22/76	Filed NOTICE OF APPEAL to the District Court by Zartleg, from the order of Bankruptcy Judge dated 3/1/76. RT: 5/4/76 in room 506 at 10:30 A.M. f.
3/22/76	Filed Designation of Contents for Inclusion in the record on Appeal and Statement of Issues. f.
3/22/76	Filed REQUEST TO CLERK TO Certify and Transmit Record.
3/31/76	Filed BRIEF of Appellant Zartleg Development Corp. f.
4/7/76	Filed STIPULATION withdrawing appeal to the USCA. True Copy Signed, A. Daniel F. Caro.
4/9/76	Filed NOTICE of Original record being transferred to the USCA.

Continued on page 4

BANKRUPTCY COURT - CONTINUATION

DOCKET ENTRIES

PROCEEDINGS

4/15/76

Submitted on behalf of the Channel Companies, Inc. by Parker, Chapin & Flattau. f.

4/16/76

Filed BRIEF of Trustee in Opposition To Appeal by Zartleg Development Corp. f.

4/17/76

Filed STIPULATION WITHDRAWING THE APPEAL TO THE USCA. True Copy, Fusaro, Clerk, M/N: BADER & BADER, 270 Madison Ave, N.Y.N.Y., Wachtell Lipton Rosen & Katz, 299 Park Ave New York, N.Y. & Whitman & Ransom 522 Fifth Ave, N.Y.N.Y.

4/20/76

Filed ORDER (copy) directing funds to be deposited in the District Court's Account. So ordered Galgoy, Bkey J. dated 4/9/76.

4/23/76

Filed REPLY BRIEF of Appellant Zartleg Development Corp. f.

4/30/76

Filed Notice of Motion to dismiss order to Show Cause. Ret: 4/29/76 at 11:30A.M. in room 234. f.

4/30/76

Filed MEMO-ENDORSED on back of Notice of Motion to dismiss order to Show Cause. Motion denied following argument, so ordered Mac Mahon, J. dated 4/29/76. (Copy to Bank Judge)

5/3/76

Filed NOTICE OF APPEAL, to the USCA by PHOENIX MUTUAL INSURANCE CO., from the order of District Judge Mac Mahon, dated 4/29/76. M/N: f.

5/13/76

Filed NOTICE OF APPEAL to the USDC by Frances Soinick from an order of Galgoy, J. Bkey. RET: 6/29/76 at 10:30 AM in room 506. f.

5/13/76

Filed Contents and Statement of Issues on Appeal. f.

5/17/76

Filed ORDER affirming the District Court's decision. (Zartleg). So ordered Wyatt, J. dated 5/17/76. Copy to Bank Judge. M/N; Wachtell Lipton Rosen & Katz 299 Park Avenue, N.Y.N.Y., Weil Gotshal & Manges 767 Fifth Ave N.Y.N.Y., Taenzer & Friedman Rt. 130 & Riverton Rd. Cinnaminson, N.J. 08077, Zissu Lore Halper & Robson 450 Park Ave, N.Y.N.Y., Ballon Still & Itzler 1180 Ave of the Amer. N.Y.N.Y. & Parker-Chapin & Flattau 530 Fifth Ave. N.Y.N.Y.

6/3/76

Filed ORDER TO SHOW CAUSE why an order granting relief in the Nature of Mandamus should not be entered. RET: 6/8/76 at 10:15 AM in room 506. f.

6/3/76

Filed AFFIDAVIT of Jon Moss in support of motion for relief in the nature of Mandamus. f.

6/3/76

Filed NOTICE OF APPEAL to the USCA from the Memorandum Decision and Order of the District Court Wyatt, J., dated 5/17/76, by Zartleg Development Corp. M/N: f.

6/10/76

Filed ORDER (True Copy) that said petition be and it hereby denied. Signed A. D. Fusaro, Clerk. M/N; Rahn Hassen Margolis & Ryan, 350 Fifth Ave., N.Y.N.Y.

DOCKET ENTRIES

DOCKET NUMBER

PROCEEDINGS

DATE	PROCEEDINGS
	Michael Leaders, US Act'y One St. Andrews Place N.Y.N.Y. 10007, T. Gawronski, Wachtell Lipton Rosen 299 Park Ave, New York, N.Y. 10017, 40 Foley Sq, N.Y.N.Y. & Hon J, J. Galgay 40 Foley Sq. N.Y.N.Y. 10007.
6/1/76	Filed ORDER (true copy) of USCA, that the Appeal from the order of the District Court is hereby dismissed. Signed A. Daniel Passaro--Clark. 5/27/76 m/n Wachtell, Lipton, Rosen & Katz, Esqs. 299 Park Ave. NYC Zissu, Lore Halper & Robson, Esqs. 450 Park Ave. NYC Hahn, Hossen, Margolis & Ryan 350 Fifth Ave. NYC
6/7/76	Filed STIPULATION & ORDER that the appeal to the USDC by the N.Y. Telephone Co., is withdrawn. So ordered Bricant, J. dated 6/4/76. M/n; George E. Ashley 1095 Ave of the Americas, N.Y.N.Y. 10036, Wachtel Lipton, Rosen & Katz, 299 Park Ave, N.Y.N.Y. 10017 & Judge Galgay 40 Foley Sq. N.Y.N.Y. 10007. Copy to Bank Judge
6/21/76	Filed NOTICE OF APPEAL to the USDC by Liebman Eulau, Robinson & Perlman, from orders dated 11/14/75 & 5/13/76. RET: 8/3/76 at 10:30 AM in room 506.f.
6/21/76	Filed Designation of items to be included in record on appeal and Statement of Issues. f.
7/6/76	Filed MEMO ENDORSED on back of the Notice of Appeal. The order of Bankruptcy Judge Galgay is Affirmed. So ordered Knapp, J. dated 7/1/76. Copy to Bank Judge. M/N; FRANCES SWINICK, 3 High St., New Brunswick, New Jersey, 08901, Wachtell Lipton Rosen & Katz, 299 Park Ave, N.Y.N.Y. 10017 & Judge Galgay, 40 Foley Sq N.Y.N.Y.
7/7/76	Filed ORDER extending time for appellant, Liebman Eulau etc., to serve and file its appellant's brief. So ordered Ward, K. dated 7/6/76. f.
7/8/76	Filed BRIEF FOR APPELLANT, Special Counsel for debtor in possession. Sub By: Liebman Eulau Robinson & Perlman.f.
7/9/76	Filed ORDER TO SHOW CAUSE why Appeal should not be dismissed, or alternatively, why Appeal should not be expedited. Ret: 7/13/76 at 10:30 A.M. Room 506. So Ordered Ward, J. Dated 7/8/76 f.
7/12/76	Filed NOTICE OF APPEAL to USDC by McLeod Stedman Ltd. from the order of Bkcy. Judge Galgay. Dated: 6/22/76 Ret: 8/24/76 at 10:30 Room 506. f.
7/12/76	Filed Designation of contents of Record on Appeal and Statement of Issues Presented. f.
7/9/76	Filed NOTICE of Original Record being transferred to the USCA.

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FROM THE FILE

UNITED STATES DISTRICT COURT

BANKRUPTCY DOCKET - CONTINUATION

DOCKET ENTRIES

PROCEEDINGS

- 7/13/76 Filed Affidavit of Donald S. Rogers in opposition to trustee's motion to dismiss or expedite this appeal. f
- 7/13/76 Filed MEMORANDUM of Morgan Guaranty Trust Co., in support of Trustee's Motion regarding the appeal from the order of the Bankruptcy Court entered 6/22/76 authorizing the sale of Zeller's Securities. Sub By: Davis POLK & WARDWELL. f.
- 7/13/76 Filed Trustee's Memorandum in support of Motion to dismiss appeal Sub By: Weil Gotshal & Manges. f.
- 7/19/76 Filed STIPULATION Suggesting withdrawal or unconditional etc. So ordered Ward, J. dated 7/16/76. f.
- 7/16/76 Filed NOTICE OF APPEAL to the USCA by Frances Swinick from the order by Judge Knapp. M/N f.
- 7/23/76 Filed MEMO ENDORSED on back of Order to Show Cause dated 7/9/76. Motion withdrawn as moot. So ordered Ward, J. dated 7/22/76. Copy sent to Bkcy. Judge.
- 7/22/76 Filed Notice of Withdrawal of Appeal (Maxleod Stedman Ltd) Granted. So ordered Ward, J. dated 7/22/76. Copy to Bank Judge. M/N; Weil Gotshal & Manges, 767 5th Ave, NYC, Webster & Sheffield 1 Rockefeller Plaza, NYC. 10020, Hahn Hessen Margolis & Ryan, 350 5th Ave, NYC, Popper & Popper 350 5th Ave, NYC, Trubin Sillcocks, Edelman & Knapp, 375 Park Ave, NYC, Davis Polk & Wardwell 1 Chase Manhattan Plaza NYC. & Debevoise Plimpton Lyons & Gatas, 299 Park Ave, NYC.
- 7/23/76 Filed transcript of testimony dated 7/13/76.
- 7/30/76 Filed Answer and Affidavit in opposition to Mandamus Petition, of Theofore Gewertz.
- 7/30/76 Filed MEMO-ENDORSED on back of Affidavit filed 6/3/76. Petitioners' request that this court order Bankruptcy Judge Galgay to rule on a motion to dismiss their complaint is denied. so ordered Gagliardi, J. dated 7/29/76.
- 7/30/76 Filed NOTICE OF APPEAL, to the USDC by Barbara Lynn of Forest Avenue, Inc. and Majors Discount Stores, Inc., from the order of the Bankruptcy Court dated 5/20/76. RET: 9/14/76 at 10:30AM in room. f.
- 7/30/76 Filed Designation of Contents of Record of appeal and Statement of issues. f.
- 7/30/76 Filed STIPULATION & ORDER extending time for filing of Brief of Appellee and Adjourning hearing on appeal. Adjourning the appeal to 9/21/76. So ordered Conner, J. dated 9/21/76. f.

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DOCKET ENTRIES

DOCKET NUMBER

DATE	PROCEEDINGS
8/10/76	Filed True Copy of an order of the USCA (Baltimore Gas) dismissing the appeal as moot. Clerk of USCA 7/16/76. M/N; LE BOURG LAIS LEBBY & MACRAE, 140 E 4th & Wachtell Lipton Rosen & Katz, 289 Park Avenue, New York, N.Y. Copy to Bank Judge.
8/12/76	Filed ORDER TO SHOW CAUSE why the order of the Bankruptcy Court herein dated 8/5/76 should not be stayed and temporary stay. So ordered Goettel, J. dated 8/12/76. RET: 8/16/76 at 11:00 AM in room 506. f.
8/26/76	Filed MEMORANDUM OF LAW Sub By: Krause Hirsch & Gross.
8/26/76	Filed MEMO-ENDORSED on back of order to show cause dated 8/12/76. The order of the Bankruptcy Court of 8/5/76 is stayed pending determination of this motion. So ordered Goettel, J. dated 8/12/76.
8/31/76	Filed NOTICE OF MOTION for an order dismissing plaintiff's appeal from the order of the Bankruptcy Court dated 7/26/76. RET: 9/14/76 at 10:30 AM in room 506. f.
8/31/76	Filed MEMORANDUM in support of defendant-appellee's motion to dismiss appeal. Sub By Wachtell Lipton etc. f.
9/1/76	Filed NOTICE OF APPEAL to the USDC by Union River Co., from the order of the Bankruptcy Judge dated 8/5/76. RET: 10/19/76 at 10:30 AM in room 506. f.
9/1/76	Filed Designation of Record on Appeal. f.
9/1/76	Filed BRIEF on behalf of Plaintiff-Appellant. Sub By: Siff & Newman. f.
9/8/76	Filed AFFIDAVIT of Jon Moss in opposition to motion to dismiss appeal. f.
9/14/76	Filed REPLY AFFIDAVIT of Jon Moss, in opposition to the Trustee's motion to dismiss. f.
9/14/76	Filed copy of General Restraining Order So ordered Galgay, J. dated 10/31/75.
9/15/76	Filed COUNTER-DESIGNATION of Contents of Record on appeal and Statement of Issue presented. f.
9/20/76	Filed STIPULATION & ORDER adjourning the appeal of Liebman Sulau Robinson & Perlman to 9/28/76 at 10:30 AM in room 506. f. So ordered Duffy, J. dated 9/20/76. f.
9/23/76	Filed MEMORANDUM OF LAW, (Union River Company) Sub by: Krause Hirsch & Gross. f.
9/27/76	Filed REPLY BRIEF on behalf of Plaintiff-Appellant. Sub By: Siff & Newman, P.C.
9/30/76	Filed ORDER of Judge Galgay--ORDERED that the leases by and between N.Y. Life and Grant and parties identified in Schedule #1 annexed, with respect to each of the premises are terminated and cancelled etc. and further ORDERED that the above is w/o prejudice to the rights of N.Y. Life to file proofs of claim in this proceeding etc....GALGAY.

FORM 204-2

CONTINUED ON PAGE 8

UNITED STATES DISTRICT COURT

BANKRUPTCY DOCKET-CONTINUATION

DOCKET ENTRIES

DATE	PROCEEDINGS
9/30/76	Filed MEMORANDUM OF APPELLEE SCHAFER (Barbara Lynn of Forest Ave, Inc.) Sub By: Levin & Weintraub. f.
9/30/76	Filed ORDER that the appeal (Liebman Eulau Robinson & Perlman) is adjourned from 9/23/76 to 10/5/76. So ordered Perlman, J. dated 9/28/76. f.
10/4/76	Filed BRIEF OF TRUSTEE-APPELLEE, Sub By Wachtell Lipton Rosen & Katz. (Barbara Lynn). f.
10/4/76	Filed BRIEF FOR APPELLANT, Special Counsel for DIP. Sub By: Liebman Eulau Robinson & Perlman. f. (Copy)
10/5/76	Filed Notice of Supplemental Record being transmitted to the USCA.
10/4/76	Filed AFFIDAVIT of Dirk S. Gould, in opposition to defendant's motion to dismiss the appeal from the order of Galgay, J. dated 7/29/76.
10/12/76	Filed MEMO-ENDORSED on back of the notice of appeal dated 6/21/76. (Liebman Eulau Robinson & Perlman) The Appeal is dismissed. So ordered Duffy, J. dated 10/12/76. M/N; Charles G. Rodman, 360 West 31 St Street, N.Y.N.Y., Wachtell Lipton Rosen & Katz, 299 Park Ave, New York, N.Y., Weil Gotshal & Manges, 767 Fifth Ave, N.Y.N.Y., Ballon Stoll & Itzler 1180 Ave of the Amer, N.Y.N.Y., S.E.C. 26 Fed Plaza. N.Y.N.Y., Popper & Popper 200 Fifth Ave, N.Y.N.Y., Hahn Hassen Margolis & Ryan 350 Fifth Ave, N.Y.N.Y., Debovoise Plimpton, Lyons & Gates. 299 Park Ave, N.Y.N.Y., Liebman Eulau Robinson & Perlman 32 East 57th St., N.Y.N.Y. & Judge Galgay, 40 Center Street, N.Y.N.Y. (Copy to Bank Judge).
10/18/76	Filed MEMORANDUM OF LAW, Sub By: Dreyer and Traub.
10/18/76	Filed MEMO-ENDORSED on back of the Notice of Appeal of Barbara Lynn. The appeal is dismissed for lack of standing. So ordered Duffy, J. dated 10/15/76. Copy to Bank Judge. M/N; Wachtell Lipton Rosen & Katz 299 Park Ave, N.Y.N.Y. Weil Gotshal & Manges, 767 Fifth Ave, N.Y.N.Y., Levin & Weintraub 225 B'way, N.Y.N.Y., Chester Robinson 919 Third Ave, N.Y.N.Y., Dreyer and Traub 90 Park Ave, N.Y.N.Y. Attn: Samuel Kirschenbaum & Judge Galgay 40 Foley Sq. N.Y.N.Y.
10/18/76	Filed STIPULATION AND ORDER withdrawing Bankruptcy Appeal as to trustee. (S.S. Kresge Co., & Charles G. Rodman) So ordered Duffy, J. dated 10/12/76. Copy to Bank Judge. f.
10/19/76	Filed NOTICE OF APPEAL to the USDC from the order dated 9/14/76 and 10/1/76 by Berger, Lee & Sutro Mortgage Investment Trust. RET: 11/5/76 @10:30 AM in room 506. f.
10/19/76	Filed Designation of Record and Issues on Appeal. f.
10/20/76	Filed CONSENT ORDER (re: Bankruptcy Appeal Berger) placing this appeal on 11/5/76. So ordered Cagliardi, Lee P. J, dated 10/20/76. f.
10/26/76	Filed NOTICE OF MOTION FOR REARGUMENT OF APPEAL, for an order granting reargument of the aforesaid appeal. (Liebman, Eulau et. al.) RET: 11/9/76 in room 203 at 10:00AM. f.

CONTINUED ON PAGE 2.

DOCKET ENTRIES

DATE	DOCKET ENTRIES
10/26/76	Filed APPELLANT'S MEMORANDUM OF LAW in support of motion for reargument. Sub By: Liebman, Eulau, etal. f.
10/26/76	Filed APPELLANTS' BRIEF, Sub By: Alter Lefevre Raphael etal
11/3/76	Filed BRIEF of Defendant-Appellee Charles G. Rodman, Trustee, Sub. By Wachtell, Lipton, Rosen & Katz, (Barger) f.
11/3/76	Filed Copy of Stipulation modifying stay of suits as to action by Sharon Lynch, Debbie Lynch, Dianne Kear & Jeanie Kear. So ordered Galgay, J. dated 10/15/76.
11/9/76	Filed Appellants Reply Memorandum of Law in support of Motion for Reargument. Sub. by Liebman, Eulau, Robinson & perlman, 32 E. 57th St. N.Y. 10022 f.
11/11/76	Filed true copy of USCA mandate # affirming the order of the Dist. Ct. with bill of costs as taxed in the sum of \$678.87. In favor of CHANNEL COS. INC. also CHARLES G. RODMAN as Trustee in the sum of \$42.40 Docketed as Judgment # 77,046 -Judg. entered 11/12/76-Clerk
11 15 76	Filed Affdvt. of Paul M. Brown Re: Application to be made at 4:30 P.M. in Room 506.
11-15-76	Filed Order to Show Cause as to why hearing on proposed Settlement and Compromise should not be stayed and restrained pending the hearing and outcome of the appeal. f
11-15-76	Filed Memo End. on Order to show cause of 11-15-76. Application for a stay is denied in all respects. See Minutes. So Ordered. Cooper J.f. Copy to Bkcy. Judge Babitt.
11-15-76	Filed Certificate to Accompany Bankruptcy's Judges Recommendation on Allowances Pursuant to Rule 16. Ret: 11-23-76 at 10:30 A.M. in Room 506. f.
11/17/76	Filed NOTICE OF APPEAL to the USDC by Gilbert Tilles & Joseph Mascioli (Landlords of Store), from the order and Judgment on 9/9/76. Ret: 12/28/76 at 10:30 AM Room 506. f.
11/17/76	Filed DESIGNATION OF the Contents for Inclusion in Record on Appeal, and Statement of Issues on Appeal. f.
11/23/76	Filed MEMORANDUM OF APPELLEE SCHAFER. Sub. by Levin & Weintraub 225 Broadway New York, N.Y. 10007
11/29/76	Filed Order Approving Allowances. So ordered Cannella, J. dated 11/23/76. Sent Copy to Bkcy. Judge.
11/29/76	Filed APPELLEE-TRUSTEE'S MEMORANDUM IN OPPOSITION to Motion for Reargument. Sub. by Weil, Gotshal & Manges 767 5th Ave. N.Y. 10022.

(Cont'd Page 10)

UNITED STATES DISTRICT COURT

CONTINUATION

DOCKET ENTRIES

U. S. Co. Inc.

73-1755

- 11/29/76 Filed MEMORANDUM, THE MOTION to reargue is denied. Appellant will have received a more than generous percentage of the fees claim to have been earned. On reargument, appellant's motion is denied. So ordered Duffy, J. dated 11/29/76.
- 12/3/76 Filed MEMORANDUM OF LAW ON BEHALF OF SCHROEDER TRUSS CO., Senior Indenture Trustee, in Opposition to Motion by Richard A. Gordon, et al., for Leave to Intervene & to Serve & File an Answer in the above-captioned Adversary proceedings. Sub. by Debevoise, Plimpton, Lyons & Gates, 299 Park Ave. NY, NY. f.
- 12/7/76 FILED "APPELLANTS" BRIEF. Sub. by Rothfeld, Ostrow & Lawrence. 479 Merrick Rd. Lynbrook, N.Y. 11563. f.
- 12/10/76 Filed NOTICE OF APPEAL to District Court by Richard A. Gordon & Frank Gordon, from the order of Calgay, J. dated 11/18/76. Ret: 1/25/76 at 10:30 AM in Rm. 506. f.
- 12/10/76 Filed DESIGNATION OF RECORD ON APPEAL. f.
- 12-13-76 Filed Transcript of Record of Proceedings held before Judge Ward dated July 13th, 1976.
- 12/15/76 Filed OPINION# 45441 the decision & memorandum opinion of the Bkcy. court dated 8/5/76 is hereby vacated, and the application of Union River is dismissed for lack of jurisdiction. So ordered Gagliardi, J. dated 12/13/76. f. n/n Copy to Bkcy. Judge.
- 12/22/76 Filed MEMORANDUM DISMISSING PLTFF'S. Appeal as untimely. So ordered Cooper, J. dated 12/21/76.
- 12/23/76 Filed ELIZABETH REMINGTON, AFFIDAVIT OF SERVICE by Mail. Affidavits in support of Order to Show Cause, Petition etc.
- 12/23/76 Filed ELIZABETH S. KEAN, AFFIDAVIT OF PERSONAL SERVICE respect to payment of trustee's fees. Petition, Affidavits and Exhibits.
- 12/23/76 Filed NOTICE OF APPEAL to USCA by Liebman, Eulau, Robinson and Perlman, from the order of District Judge Duffy, J. dated 10/12/76 and 11/29/76 n/n f.
- 12/27/76 Re: LILIAN EULAU ROBINSON & PERLMAN... Filed stipulation for the admission of certain true copy of document filed in this matter on October 4-77, but presently missing.

ORDER AUTHORIZING RETENTION OF SPECIAL
COUNSEL, DATED 11/14/75

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	In Proceedings for
	:	an Arrangement
W. T. GRANT COMPANY,	:	No. 75 B 1735
	:	
Debtor.	:	
	:	

----- x

ORDER AUTHORIZING DEBTOR-
IN-POSSESSION TO RETAIN
AND EMPLOY SPECIAL COUNSEL

Upon the annexed application of W. T. Grant Company ("Grant"), as debtor-in-possession, dated November 12, 1975 for an order authorizing it to retain and employ Liebman, Eulau, Robinson & Perlman, Esqs., as special counsel, to render legal services in connection with the pending litigation in which Grant is the plaintiff and John A. Christensen, Mark S. Haines, Daniel Quinlan, et al., are the defendants (Civil Action No. 75 Civ. 471 CLB) and in connection with the related filing of a proof of loss with Home Insurance Company on Grant's behalf by said law firm, and upon the annexed affidavit of Herbert Robinson, Esq., a member of such firm, sworn to November 6, 1975, and the court being satisfied that the firm of Liebman, Eulau, Robinson & Perlman, Esqs., represents no interest adverse to the estate herein or its creditors, and sufficient cause appearing therefor, it is

ORDERED, that Grant, as debtor-in-possession, be, and is hereby is, authorized and empowered to retain and employ

ORDER AUTHORIZING RETENTION OF SPECIAL
COUNSEL, DATED 11/14/75

Liebman, Eulau, Robinson & Perlman, Esqs., as special counsel with respect to all legal matters and litigation arising from the above-described pending litigation and filing of proof of loss; and it is further

ORDERED, that the retention and employment of Liebman, Eulau, Robinson & Perlman, Esqs., as special counsel to Grant be, and the same hereby is, approved and ratified as of October 2, 1975; and it is further

ORDERED, that a retainer for legal services and out-of-pocket expenses in the amount of \$10,000 be paid to Liebman, Eulau, Robinson & Perlman, Esqs., forthwith and that compensation of said firm for legal services rendered shall be hereafter fixed by this Court upon proper application being made therefor and after deducting the aforesaid \$10,000 retainer.

Dated: New York, New York
November, -, 1975.

/s/ Walter D. Galea
Bankruptcy Judge

BASED UPON THE REPRESENTATIONS IN THE ANNEXED APPLICATION, THE UN-OFFICIAL CREDITORS' COMMITTEE HAS NO OBJECTION TO ENTRY OF THE ABOVE ORDER.

WEIL, GOTSHAL & MANGES, and
BALLON, STOLL & ITZLER,
Co-counsel for Unofficial
Creditors' Committee

By */s/ Charles S. Taylor*
A Member of the Firm of
Ballon, Stoll & Itzler

By signing this order the Court is not bound by the language of D.U. 1 & 2 of Herbert Robinson's affidavit and agrees to file compensation at what is found to be fair and reasonable.

APPLICATION FOR ORDER AUTHORIZING
RETENTION OF SPECIAL COUNSEL
DATED 11/12/75

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	In Proceedings for
	:	an Arrangement
	:	
W. T. GRANT COMPANY,	:	No. 75 B 1735 .
	:	
Debtor.	:	
	:	

----- x

APPLICATION FOR ORDER AUTHORIZING
RETENTION AND EMPLOYMENT OF SPECIAL
COUNSEL TO DEBTOR-IN-POSSESSION

TO THE HONORABLE JOHN J. GALGAY, BANKRUPTCY JUDGE:

The application of W. T. Grant Company ("Grant"), as debtor-in-possession, respectfully represents:

1. Heretofore and on October 2, 1975, Grant filed with this Court a petition for an arrangement under Chapter XI Section 322 of the Bankruptcy Act. Thereafter, and pursuant to an order of this Court dated October 2, 1975, Grant was authorized to continue to operate its business and manage its properties as debtor-in-possession.
2. Immediately prior to the filing of the petition for an arrangement, Grant was engaged in the business of operating and managing retail outlets for the sale of general lines of merchandise. Grant heretofore operated a total of 1,070 stores located in 40 states, and occupying a gross area of approximately 52,000,000 square feet. During its fiscal year ended January 30, 1975, Grant had sales of \$1,761,962,000, making it the sixth largest retail business in the United

APPLICATION FOR ORDER AUTHORIZING
RETENTION OF SPECIAL COUNSEL
DATED 11/12/75

States, exclusive of supermarket chains and the seventeenth largest retail business overall.

3. In 1975, Grant became aware of a scheme involving certain of the employees in its real estate department and others, by virtue of which these persons, firms and corporations were appropriating and divesting to themselves secret profits, (including commissions, bribes, kickbacks and the like) with an intent to defraud Grant. Among other things, Grant ascertained that such parties had executed leases and/or cancelled, transferred and assigned leases for stores located in, or to be located in, shopping centers throughout the United States which were not in the best interest of Grant and were not the result of good faith arms length negotiations.

4. Prior to the filing of the Chapter XI petition herein, Grant retained the services of Liebman, Eulau, Robinson & Perlman, Esqs., as special counsel for the purpose of commencing and pursuing litigation against the above-described parties. The law firm commenced such an action which is entitled W. T. Grant Company v. John A. Christensen, Mark S. Haines, Daniel Quinlan, et al. (Civil Action No. 75 Civ. 471 CLB) and filed a related proof of loss with Home Insurance Company on Grant's behalf. Grant now requires the continuation of such services during this case and it is essential that Grant retain counsel who are familiar with the existing litigation. Due to its prior retention by Grant, Liebman, Eulau, Robinson & Perlman, Esqs., is familiar with such litigation and its retention as special counsel is in the best interests of Grant, its estate and its creditors.

APPLICATION FOR ORDER AUTHORIZING
RETENTION OF SPECIAL COUNSEL
DATED 11/12/75

5. Because of certain time delays, Grant has been unable to submit this application to the Court before this date, although Liebman, Eulau, Robinson & Perlman, Esqs., has been called upon by Grant to render services in connection with the above-described litigation since the date of the filing of the Chapter XI petition herein, principally due to motions initiated by the defendants. Said law firm has already rendered services during the post-petition period on behalf of Grant valued at approximately \$10,000 based on its normal hourly rates. Accordingly, Grant respectfully requests that such firm's retention and employment as special counsel to the debtor-in-possession be approved and ratified as of October 2, 1975.

6. Liebman, Eulau, Robinson & Perlman, Esqs., has agreed to perform the above-described services provided that it receives a retainer for legal services and out-of-pocket expenses in the amount of \$10,000. Said firm will hereafter, upon performance of their services, submit proper applications for compensation to this Court, after deducting the aforesaid \$10,000 retainer.

7. To the best of Grant's knowledge, the firm of Liebman, Eulau, Robinson & Perlman, Esqs., has not had any prior connection with Grant, its creditors, or any other party in interest or their respective attorneys and/or accountants, except as stated above and in the annexed affidavit of Herbert Robinson, Esq. Upon information and belief, the firm of Liebman, Eulau, Robinson & Perlman, Esqs., represents no

APPLICATION FOR ORDER AUTHORIZING
RETENTION OF SPECIAL COUNSEL
DATED 11/12/75

interest adverse to the interests of the creditors of Grant in the matters upon which it is to be engaged and the employment of said firm would be in the best interests of said creditors and the estate of Grant.

8. An unofficial Creditors' Committee was elected at a meeting of creditors held on October 15, 1975. The Committee has been apprised of this application and has indicated that it has no objection to the relief requested herein.

9. No previous application for the relief sought herein has been made to this or to any other Court.

WHEREFORE, Grant respectfully prays for the entry of the prefixed order, and for such other and further relief as is just.

Dated: New York, New York
November 12, 1975.

W. T. GRANT COMPANY
Debtor-in-Possession

By /s/ Robert H. Anderson
President

WACHTELL, LIPTON, ROSEN & KATZ
and LAWRENCE P. JONES
Attorneys for Debtor-in-Possession

By /s/ Leonard M. Pien
/A Member of the Firm
Office and Post Office Address:
299 Park Avenue
New York, New York 10017
Tel. No. (212) 371-9200

AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - - - - X

In the Matter	:	In Proceedings for an
of	:	Arrangement
W. T. GRANT COMPANY,	:	No. 75 B 1735
Debtor.	:	<u>AFFIDAVIT</u>

- - - - - X

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

HERBERT ROBINSON, being duly sworn, deposes and says:

1. I am a member of the firm of Liebman, Eulau, Robinson & Perlman, attorneys of record for W. T. Grant Company ("Grant") in an action pending in the United States District Court for the Southern District of New York entitled:

"W. T. Grant Company, plaintiff against John A. Christensen, Mavis Christensen, Mark S. Haines, Daniel Quinlan, John W. Waits, John W. Waits, doing business as John W. Waits Associates, JWW, Inc., Centurion Development Corporation, Centurion of Louisiana, Inc., Mid-America Development, Development Corporation of Mid-America, Umbaugh Pole Building Company, Inc., also known as Umbaugh Co., Frontier Development Corporation, John Does I through X, the names of said defendants being unknown to plaintiff at the present time, Defendants",

75 Civ 471 CLB (hereinafter referred to as "the action"). I am

AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

fully familiar with the facts recited in this affidavit which is submitted in support of the debtor's application to retain my firm as Special Counsel to continue to litigate the action as well as the related action against John and Mavis Christensen which is pending in the United States District Court, District of Connecticut, Number N-75-29 (hereinafer the Connecticut action). We also seek to be retained to continue to represent Grant in its fidelity bond claim against the Home Insurance Company (see ¶ 13 infra).

2. The action was commenced on January 3, 1975 and seeks damages against several former high level fiduciaries, employed in Grant's real estate department, who were charged with the responsibility of negotiating leases, selecting sites and recommending the lease price for Grant's shopping centers. Also named as defendants are a group of real estate developers which allegedly paid bribes and kickbacks to the aforesaid real estate directors in order to obtain Grant's business.

3. The original complaint included a cause of action arising under the anti-trust laws of the United States, as well as certain pendent claims relating to fraud, breach of fiduciary duty, commercial bribery and breach of and interference with contract. However, upon defendants' motion to dismiss, Hon. Charles L. Brieant held that Grant was not the "target" of the alleged anti-trust violations and therefore did not have the requested standing to maintain an anti-trust action. Grant's motion to reargue the aforesaid dismissal is still pending. In the event reargument is denied we would recommend that an appeal be taken from

AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

the dismissal of the anti-trust action.

4. An amended complaint was filed and served on June 23, 1975. It alleges complete diversity of citizenship and seeks treble damages for violation of the Robinson-Patman Act as well. Defendants' motions to dismiss the amended complaint are scheduled to be argued on November 18, 1975.

5. There is presently pending an appeal by defendant Mark S. Haines from the order of Judge Brieant denying said defendant's motion to dismiss the action and to disqualify this firm. That appeal is scheduled to be argued during December, 1975.

6. We are familiar with the facts relating to this action and the Connecticut action and are of the opinion that client has meritorious causes of action against its former real estate executives as well as against the shopping center developers which paid the illegal bribes to those fiduciaries.

7. Our firm has great familiarity with the issues of fact and law relating to this type of litigation, having handled matters involving commercial bribery for the past 23 years. In addition, I have lectured on commercial bribery before various organizations including lawyers, bankers, and business executives in various parts of the United States.

8. As stated supra, my firm has represented Grant in this action and the Connecticut action since their inception. Accordingly, we are fully familiar with the nature of the action, the documentary evidence including copies of checks received by the former employees from the shopping center developers as well as other documents which we believe establish liability in favor of

AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

Grant, and other facts not set forth in documentary form.

9. We have been required to render services and incur out-of-pocket disbursements in this litigation from October 2, 1975 to the date of this affidavit because of various motions made by a number of the defendants attacking the sufficiency of the complaint and in connection with the preparation of client's brief in opposition to the appeal referred to in paragraph 5 of this affidavit. We have also been concluding settlement arrangements with the Christensens in both this action and the Connecticut action. As set forth hereafter, we will apply to the Court for interim allowances on account of such services and disbursements.

10. Thus, it is respectfully submitted that my firm, by virtue of its having been retained by Grant in this action previously and by reason of its familiarity with this type of litigation, meets all of the requirements necessary to continue this action.

11. My firm would agree to continue this litigation on the basis of an initial retainer of \$10,000 for services commencing November 6, 1975. When the time charges incurred by our firm exceed said \$10,000 retainer, we are to be compensated in accordance with our prevailing time charges in effect at the time such services are rendered. Our time charges in this matter now range from \$65.00 per hour for associates to \$125.00 per hour for senior partners. Paralegals services are billed at \$30.00 per hour. In addition, we intend to apply to the Court for interim allowances on account of services and disbursements from

AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

October 2, 1975 through November 5, 1975.

12. While we, of course, cannot guarantee the results of this action, we are of the opinion that Grant has a meritorious position and likelihood of success. As an example, we are in the process of completing arrangements whereby a very substantial sum will be recovered by Grant through settlement of one portion of this litigation and the Connecticut action in addition to large sums previously recovered thereby.

13. Furthermore, we have been representing Grant in a claim under its fidelity bond against Home Insurance Company, the carrier, for losses resulting from the dishonesty of its real estate executives, acting alone and in collusion with each other, as well as with shopping center developers. We have compiled and presented to Home Insurance Company a proof of loss in the amount of \$2,204,563.49, reserving the right to file amended proofs of loss as may be necessary. The attorneys for Home Insurance Company have requested additional information in support of such claim and we are presently compiling relevant data and making the necessary computations. We are of the opinion that client has a valid and meritorious claim, although we are unable at this time to give any assurances as to the amount of loss that will be established, nor as to the amount of any recovery.

14. We have not entered into any agreement express or implied with any other party in interest, including the debtor, any creditor, or any representative of them, or with any attorney of any such party in interest in the proceeding for the purpose of

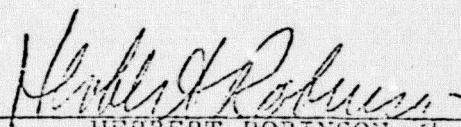
AFFIDAVIT OF HERBERT ROBINSON IN
SUPPORT OF APPLICATION, DATED 11/6/75

fixing the fees and other compensation to be paid to Special Counsel or to such party in interest in the proceeding for services rendered or expenses incurred in connection therewith, from the assets of the estate in excess of the compensation allowed by law.

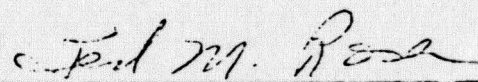
15. No payments have heretofore been made or promised to my firm for services rendered or to be rendered in any capacity whatsoever except as set forth in this affidavit.

15. No agreement or understanding exists between my firm and any other person for the sharing of compensation to be received for services rendered or in connection with such proceeding.

WHEREFORE, it is respectfully requested that Grant be authorized to retain the firm of Liebman, Eulau, Robinson & Perlman as Special Counsel in connection with the continuation of the aforesaid action in accordance with the fee arrangement set forth in this affidavit.


HERBERT ROBINSON

Sworn to before me this
6th day of November, 1975



TED M. ROSEN
Notary Public, State of New York
No. 30-4503481 (Qual. in Nassau Co.)
Certificate Filed in New York County
Commission Expires March 30, 1977

PROPOSED ORDER AUTHORIZING
TURNOVER OF FUNDS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

W. T. GRANT COMPANY,

Debtor.

In Proceedings for
an Arrangement

75 B 1735 (JJG)

ORDER AUTHORIZING THE
TURNOVER OF FUNDS TO
LIEBMAN, EULAU, ROBINSON
& PERLMAN

Upon the application of Liebman, Eulau, Robinson & Perlman, Special Counsel to W.T. GRANT COMPANY ("Grant"), pursuant to the Order of Retention dated November 14, 1975 and the accompanying affidavit of Allan J. Kirschner, sworn to the 7th day of March, 1976, the consent of the Debtor-in-Possession and its attorneys, Wachtell, Lipton, Rosen & Katz, and sufficient cause appearing therefor, it is

ORDERED, that Liebman, Eulau, Robinson & Perlman, Special Counsel to Grant, as Debtor-in-Possession, be and it is hereby authorized to transfer to itself the sum of \$37,361.25 out of the \$75,000.00 that Special Counsel is now holding in its Special Account and turn over the balance thereof, to wit, \$37,638.75 to Grant.

Dated: New York, N.Y.
March , 1976.

Bankruptcy Judge

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

W. T. GRANT COMPANY,

Debtor.

In Proceedings for
an Arrangement

75 B 1735 (JJG)

AFFIDAVIT IN SUPPORT OF
ORDER AUTHORIZING SPECIAL
COUNSEL TO TRANSFER FUNDS
TO ITSELF AND REMIT THE
BALANCE TO DEBTOR-IN-
POSSESSION

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

ALLAN J. KIRSCHNER, being duly sworn, deposes and says:

1. I am a member of the firm of Liebman, Eulau, Robinson & Perlman, Special Counsel to W.T. GRANT COMPANY, Debtor-in-Possession, ("Grant"), pursuant to the order of Hon. John J. Galgay, Bankruptcy Judge, dated November 14, 1975, in the action entitled "W.T. Grant Company v. John A. Christensen, et al.", 75 Civ. 471 (CLB) as well as in a related action that was instituted by Grant against the Christensens in the United States District Court for the District of Connecticut (hereinafter referred to as the "action") and a claim against Grant's fidelity bonding company (hereinafter referred to as the "bonding claim").

2. I am fully familiar with the facts recited in this affidavit which is submitted in support of Special Counsel's

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

application to transfer to itself the sum of \$37,361.25 out of the \$75,000.00 which is now being held in Special Counsel's Special Account. The aforesaid \$37,361.25 requested by this application is for legal services performed by my firm from February 14, 1975 through and including October 1, 1975 (the date prior to the filing of this proceeding) in the action and bonding claim in the sum of \$35,739.55 plus unpaid disbursements in the sum of \$1,621.70. The total amount of services rendered by my firm during that period amounted to \$60,739.55 for which we received partial payment of \$25,000.00. Special Counsel has not received any other payment for the aforesaid services rendered or disbursements incurred by it on behalf of the Debtor-in-Possession during that period.

3. As set forth in paragraphs 9 and 12 of the affidavit of my partner, Herbert Robinson, sworn to November 6, 1975, submitted in support of Grant's application to retain my firm as Special Counsel, we had conducted settlement negotiations and entered into an agreement of settlement with the Christensen defendants in the New York and Connecticut actions. As part of that settlement, which was negotiated and entered into prior to Grant's filing its petition for an arrangement, Grant received \$150,000, \$75,000 of which was paid to Grant on or about May 16, 1975, at the time that the settlement agreement was executed, and the additional \$75,000 of which was paid to Grant and my firm as

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

attorneys for Grant by check which was endorsed by Grant and my firm and deposited into our Special Account. Moreover, as a result of our representation, Grant has retained in excess of \$80,000 from a shopping center landlord which made secret payments to Christensen.

4. Since the funds in our Special Account represent the proceeds of the settlement entered into and negotiated by my firm as counsel for Grant in the action, my firm has a charging lien against the proceeds thereof. Section 475 of the Judiciary Law of the State of New York states in pertinent part:

"From the commencement of an action ... in any court, ... the attorney who appears for a party has a lien upon his client's cause of action, claim or counterclaim, which attaches to a verdict ... determination, judgment or final order in his client's favor, and the proceeds thereof in whatever hands they may come... The court upon petition of the client or attorney may determine and enforce the lien."

In addition, we also have a retaining lien upon such proceeds which came into our possession by virtue of our representation of Grant in this matter. Nolan v. Hemmingway Bros. Interstate Trucking Co., 88 F.Supp. 111, 113 (S.D.N.Y. 1950). The liens attach to the proceeds of a settlement. Levy v. Grand Central Wicker Shop, 249 N.Y. 168 (1928); Matter of Heinsheimer, 214 N.Y. 361, 365 (1915).

5. As the New York Court of Appeals stated in Robinson v. Rogers, 237 N.Y. 467, 470-472 (1924):

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

"In order to secure such payment the attorney has two kinds of lien - a general lien for the entire balance of account on all papers, securities or monies belonging to his client which came into his possession and a charging lien for services rendered in a particular action or proceeding upon his client's cause of action. The general or retaining lien is dependent upon possession; the charging lien was created to 'save the attorney's rights where he had been unable to get possession'.

* * *

"... the attorney has a lien on the proceeds of the settlement...."

See 1 Weinstein-Korn-Miller, New York Civil Practice, ¶321.14.

Thus, we are entitled to a charging and retaining lien. Id

¶321.15. The charging lien:

"... is paramount over all other claims as the fund created by the attorney's efforts." Id ¶321.16 (Emphasis supplied).

6. The services rendered from February 14, 1975 through and including October 1, 1975 include the following:

1. Appearance before Hon. Charles L. Brieant in opposition to defendants' motion to vacate client's order of attachment;

2. Research and preparation of memoranda of law submitted in the Connecticut action in opposition to defendants' motion to dismiss or transfer the action, and vacate attachment and injunction previously issued;

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

3. Appearance at the United States District Court for the District of Connecticut and argued in opposition to defendants' motion;

4. Conducted deposition of Christensen in the United States District Court, District of Connecticut courthouse;

5. Preparation of Marshals' returns for order of attachment to be served upon various persons, firms, corporations and other entities throughout the United States;

6. Numerous telephone conferences and office meetings with client, client's officers, directors and general counsel;

7. Review of numerous documents obtained from client and others in preparation for discovery and trial;

8. Numerous telephone conferences and office meetings with shopping center developers and their attorneys;

9. Preparation for taking of and appearing at various depositions;

10. Preparation of requests to produce;

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

11. Numerous telephone conferences with various attorneys for defendants and with Judge Brieant's chambers;

12. Received and reviewed motion by various defendants to stay the taking of their depositions;

13. Research and preparation of affidavits and memoranda of law in opposition to defendants' motion;

14. Appearance before Judge Brieant in opposition to the aforesaid motion;

15. Telephone conferences and correspondence with client's corresponding Georgia counsel in connection with depositions of and documents in possession of defendants' banks;

16. Numerous conferences with Christensens and their New York and Connecticut attorneys re settlement;

17. Preparation of numerous draft stipulations of settlement and related documents annexed as exhibits thereto, including deed, mortgage, confession of judgment, judgment, release of pre-judgment remedies, etc.;

18. Attended closing of settlement with the Christensens and their attorneys;

19. Conducted the oral depositions of defendant Umbaugh and its employees;

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

20. Received and reviewed defendants' motion to dismiss the complaint and service of process on omnibus grounds;

21. Research and preparation of affidavits and memoranda of law in opposition to motions to dismiss;

22. Appeared before Judge Brieant and argued in opposition to defendants' motion;

23. Received and reviewed defendant Haines' motion to disqualify counsel and to dismiss actions;

24. Research and preparation of affidavits and memoranda of law in opposition to Haines' motion;

25. Appeared before Judge Brieant and argued in opposition to defendant Haines' motion;

26. Received and reviewed defendant Umbaugh's motion to take the deposition of Herbert Robinson;

27. Research and preparation of affidavits and memoranda of law in opposition to such motion;

28. Appeared before Judge Brieant and argued in opposition to such motion and to limit the scope of such deposition;

29. Received and reviewed the decision of Justice Brieant dismissing Count 1 (Sherman Act) of the complaint, dismissing the complaint with leave to replead, and vacating service of process upon defendants Haines and Quinlan;

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

30. Preparation of motion to reargue the decision of Judge Brieant as dismissed Count 1 and vacated service of process;

31. Research, preparation, service and filing of amended complaint including a new Count 1 for violation of the Robinson-Patman Act;

32. Received and reviewed Umbaugh's motion for summary judgment dismissing the complaint against it;

33. Research and preparation of answering and rejoinder affidavits and memoranda of law in opposition to Umbaugh's motion;

34. Appeared before Judge Brieant in opposition to defendant Umbaugh's motion;

35. Received and reviewed decision of Judge Brieant denying defendant Umbaugh's motion for summary judgment;

36. Prepared proposed order for alternate service of process upon defendants Haines and Quinlan;

37. Appeared before Judge Brieant and argued in support of said order, which was signed by Judge Brieant;

38. Received defendant Haines' notice of appeal from the denial of his motion to dismiss this action against him or to disqualify counsel;

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

39. Conferences and appearance before the staff counsel for the Second Circuit for pre-argument conference;

40. Received and reviewed defendant Haines' motion to remove the in camera restriction on certain exhibits;

41. Research and preparation of affidavit and memorandum of law in opposition to Haines' motion;

42. Appeared before Judge Brieant and argued in opposition to such motion;

43. Reviewed the decision of Judge Brieant denying Haines' motion;

44. Received and reviewed defendant Haines' motion before the Court of Appeals for the Second Circuit to remove the in camera restrictions of certain exhibits;

45. Research and preparation of affidavit and memorandum of law in opposition to said motion;

46. Received and reviewed decision of Second Circuit granting Haines' motion to remove in camera restriction;

47. Attended to settlement of the record on Haines' appeal;

48. Received and reviewed motions to dismiss

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

amended complaint by defendants Haines, Quinlan
and Waits and the Waits Corporation;

49. Received subpoena from the United
States Attorney and prepared documents in response
to the aforesaid subpoena.

7. The following is a breakdown of the hours spent by
partners, associates, and paralegal of my firm in connection with
the services set forth in the preceding paragraph:

<u>Attorney</u>	<u>Hours</u>	<u>Rate Per Hour</u>	<u>Amount</u>
Herbert Robinson (Partner)	115.45	\$125.00	\$14,431.25
Julian S. Perlman (Partner)	3.50	125.00	437.50
Allan J. Kirschner (Partner)	150.62	100.00	15,062.00
Stanley S. Leffler (Partner)	.50	100.00	50.00
Lawrence M. Rosenstock (Associate)	17.00	75.00	1,275.00
Derek C. Brown (Associate)	2.50	65.00	162.50
Ted M. Rosen (Associate)	221.35	60.00	13,281.00
Robert Kruger (Associate)	125.00	70.00	8,750.00
Leonard Doran (Associate)	53.85	60.00	3,231.00
Joel M. Rudell (Associate)	.95	80.00	76.00
Hon. Joseph Stone (Of Counsel)	20.00	100.00	2,000.00
Elizabeth Sawyer (Paralegal)	36.11	30.00	,083.30
Leonard Wolfram (Outside Associate)	12.00	75.00	900.00
		TOTAL -	<u>\$60,739.55</u>

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

8. In view of the extensive services performed by my firm prior to the filing of this proceeding, which efforts resulted in Grant obtaining \$150,000 from Christensen and in excess of \$80,000 from a shopping center landlord, plus valuable cooperation from its former real estate director, which cooperation has already proved to be useful in connection with the remaining defendants' new motion to dismiss this action, and in view of our retaining and charging lien, as well as Grant's agreement to pay for our legal services in accordance with the rates set forth in paragraph 7 supra, it is respectfully requested that this Court grant our application for an order authorizing us to turn over \$37,361.25 out of the proceeds of the settlement between Grant and the Christensens which is now being held in our Special Account and turn over the balance thereof, to wit, \$37,638.75 to Grant.

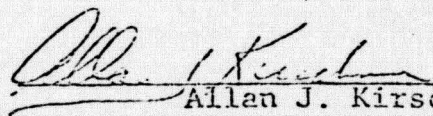
9. As set forth in the prior affidavit of Herbert Robinson sworn to November 6, 1975, submitted in support of Grant's motion to appoint my firm as Special Counsel, Special Counsel has not entered into any agreement express or implied with any other party in interest including the Debtor, any creditor, or any representative of them, or with any attorney of such party in interest in the proceeding for the purpose of fixing the fees or other compensation to be paid to Special Counsel, or to such party in interest in the proceeding for services rendered or expenses incurred in connection therewith from the assets of the estate in excess of the compensation allowed by law.

AFFIDAVIT OF ALLAN J. KIRSCHNER
IN SUPPORT OF PROPOSED ORDER

10. Other than the \$10,000 retainer paid to my firm as Special Counsel in this proceeding pursuant to the order of Hon. John J. Galgay, Bankruptcy Judge, dated November 14, 1975, which sum was an advance retainer for services performed by us after the filing of this proceeding, no payments have been made or promised to my firm for services rendered or to be rendered by my firm as Special Counsel in this proceeding.

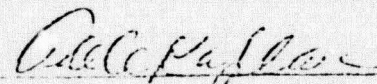
11. No agreement or understanding exists between my firm and any other person for the sharing of compensation to be received for services rendered or in connection with such proceeding.

WHEREFORE, it is respectfully requested that this application for authority to turn over funds being held in our Special Account be granted.


Allan J. Kirschner

Sworn to before me this

23rd day of March, 1976.


ADDELLE KIRSCHNER
NOTARY PUBLIC, State of New York
No. 61-116823
Qualified in New York City
Commission Expires March 20, 1976

ANSWERING AFFIDAVIT OF THEODORE G. GEWERTZ,
IN OPPOSITION TO APPLICATION TO TURNOVER FUNDS

FILED IN CASE NO. 10000
JULY 10 1975

In re :
W.T. GRANT COMPANY, :
Debtor and Debtor-in-Possession :
: In Proceedings
: for an Arrangement
: 75 B 1735 (JJS)
: ANSWERING AFFIDAVIT

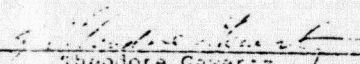
STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

THEODORE G. GEWERTZ, being duly sworn, deposes and
says:

1. I am a member of the firm of Wachtell, Lipton,
Rosen & Katz, attorneys for W.T. GRANT COMPANY, Debtor-in-
Possession ("Grant").

2. This affidavit is submitted on behalf of Grant
in partial opposition to the application of Liebman, Eulau,
Robinson & Perlman for an order authorizing the turnover of
funds to itself.

3. Grant opposes said application to the extent that
it requests a turnover of funds representing compensation for
services rendered by said firm subsequent to May 16, 1975 for
the reasons set forth in the memorandum of law submitted con-
temporaneously herewith.


Theodore Gewertz

Sworn to before me this
2nd day of April, 1975


Notary Public
Theodore Gewertz
75 B 1735

TRANSCRIPT OF HEARING ON 4/2/76
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
(In Bankruptcy)

In the Matter
of

V. E. JAMES COMPANY

No. 73 B 1735

U. S. Courthouse
Foley Square
New York, New York

April 2, 1976
10:00 o'clock a.m.

Appl. of Liebman, Lulau, Robinson &
Forlman - re: application for allowances

B E F O R E :

HON. JOHN J. GALEY,

Bankruptcy Judge

RAYVID REPORTING SERVICE

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TRANSCRIPT OF HEARING ON 4/2/76

A P P E A R A N C E S :

WISCHTEL, CLIFTON, ROSEN & WEIZ, ESQs.,
Attorneys for Debtor

249 Park Avenue
New York, New York

BY: THEODORE GEWERTZ, ESQ.,
and
MARC ROSENBAUM, ESQ.,

Of Counsel.

LIBEMAN, EULAU, ROBINSON & PERLMAN, ESQs.,
Attorneys for -- Applicant

32 East 57th Street
New York, New York

BY: ALLAN J. KIRSCHNER, ESQ.,
and
HERBERT ROBINSON, ESQ.,

Of Counsel.

WEIL, GOTSHAL & MANGES, ESQs.,
Attorneys for Creditors Committee

767 Fifth Avenue
New York, New York

BY: WILLIAM J. ROCHELLE, III, ESQ.,
Of Counsel.

THE JUDGE: We will deal with

the application of Liebman, Eulau,
Robinson and Perlman.

MR. KIRSCHNER: Your Honor has
before you our application and supporting
affidavit.

In essence, my firm seeks the
recovery of \$35,732.35 for legal fees

TRANSCRIPT OF HEARING ON 4/2/76

L. T. Brown

this amount of \$1,121.75 for
services rendered between January 1,
1973 and October 1, 1975.

The amount of fees and disburse-
ments that were incurred in that period
amounted to \$60,739.55, but we received
partial payment of \$25,000 so we have
deducted that amount to arrive at the
figure that I mentioned before.

THE JUDGE: When we met the other
day in chambers I asked you to give notice
to all of the appropriate parties.

MR. KIRSCHNER: The admission of
services is on the reverse side of the
document that you have and on the blue
back as well.

THE JUDGE: Is there anyone from
the SAC here? Hearing no response, I
gather that there is no one here.

MR. KIRSCHNER: Your Honor, this
morning I received the memorandum of
law and affidavits from Kuntel, Epton,
Loren - that would suggest that the

TRANSCRIPT OF HEARING ON 4/2/76

W. T. Grant

lien only applies for the service rendered up until the date of the stipulation of settlement between W. T. Grant and Mr. Christensen which was executed on May 16, 1975.

Assuming, and only for the purpose of argument and I will speak a little later on that, their premise is wrong, but assuming that it is correct, they overlook the fact that the May 16, 1975 stipulation required the performance of additional work after the date of the stipulation in connection with the litigation.

One of the benefits which Grant derived by virtue of this stipulation was the cooperation from Mr. Christensen in connection with the prosecution of this action prosecution and much of the services performed from May 16th and through and including October 1st, the day before filing related to the service actually called for and contemplated by

TRANSCRIPT OF HEARING ON 4/2/76

A. W. Grant

this stipulation.

Remember that the 1911 Supreme Court case of *Heenan* that is cited by the Wachtel firm on page five of its brief had any relevance, I think the facts here are contrary.

In addition, the Wachtel firm suggests that \$25,000 be deducted from the fee we seek.

Of course, we had already deducted that because we performed \$50,000 worth of service.

If Your Honor were inclined to state that the Liebman firm would be entitled to fees only up until May 15th out of the \$75,000 that we are now holding in our bank account, I would respectfully submit that Your Honor should take the \$25,000 that we have received prior to the filing and apply it to the work, labor and services that were performed from May 15th through October 1st, which is substantially less

TRANSCRIPT OF HEARING ON 4/2/76

I. C. Court

1
2
3 then \$10,000 and in that case we would
4 be entitled to receive the full amount
5 that we seek.

6 Your Honor, I think more rele-
7 vant, but not directly in point, is the
8 Second Circuit Court of Appeals case
9 decided April 22, 1970 in the matter
10 of Ira Haupt & Company on a petition
11 by Cammerman and Cammerman as attorneys
12 and accountants.

13 In that case the court denied
14 the payment of legal fees because there
15 was no question that the payment was
16 for obligations incurred years before.

17 Since the legal fees that we are
18 seeking occurred directly in the period
19 from which we received our fund the Haupt
20 case petitioned by Cammerman supports the
21 position that we are now taking.

22 Moreover in that same case the
23 court did permit the attorneys to have
24 a retort for the work that they performed
25 during that relevant period and allow

TRANSCRIPT OF HEARING ON 4/2/76

U. S. Court

1
2
3 then -- I am not sure whether they
4 allowed the payment of rent to bank
5 for a hearing, but they said what a set-
6 off was proper.

7 Finally, Horse has a good dis-
8 cussion and I cite paragraph 70.37 sub-
9 division 2 "And attorney retaining lien
10 or possessory lien on the papers of his
11 client or on the fruits of litigation
12 or on a chattel mortgage or on other
13 property coming into his hands may be
14 enforced notwithstanding bankruptcy.

15 There are no requirements of
16 notice of record surrounding this well-
17 known common law right and hence, the
18 trustee representing the creditors is
19 in no position to object."

20 Of course there are cases cited
21 therein, Your Honor.

22 THE JUDGE: When did the fund
23 come into the hands of your client?

24 MR. KIRSCHNER: The \$75,000
25 fund is now being held in our bank

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TRANSCRIPT OF HEARING ON 4/2/76

A. T. T. T.

...and that the ...
...the ...

It related to ...
...in accordance with the stipu-
...that was entered into on ...
1975 pursuant to the stipulation of that
settlement.

The funds that came into our hands
were dependent upon the exchange of
papers in accordance with the provision
of that stipulation of settlement.

For those reasons, Your Honor,
and the reasons set forth at length in
the supporting --

THE JUDGE: Do you have the exact
date when the \$75,000 came into your
hands?

MR. KIRSCHNER: I say have it.
No, I don't know it offhand.

THE JUDGE: There is no doubt that
it was in order October 1, 1975?

MR. KIRSCHNER: That's correct.
In addition to the ...

1 TRANSCRIPT OF HEARING ON 4/2/76

2 W. G. Grant

3 the benefit of proceeds in excess of
4 \$20,000 pursuant to the work that we
5 performed prior to bankruptcy from a
6 real estate developer from whom Grant
7 deducted some rent charges and there
8 was an additional Grant received by
9 virtue of the work performed by us in
10 that period.

11 I submit that our order should
12 be granted in full for all of the rea-
13 sons as set forth in my affidavit as
14 well as the argument advanced by me
15 this morning.

16 THE JUDGE: Mr. Gewertz?

17 MR. GEWERTZ: We were reluctant
18 to put in any sort of opposition to this
19 motion; however, as trustee under Section
20 342 we felt obliged to set forth the legal
21 position as to the validity and the appli-
22 cability of the two liens upon which the
23 claim rests.

24 This is set forth in our brief.
25 With respect to the remaining lien, that

1 TRANSCRIPT OF HEARING ON 4/2/76|

2 W. A. Grant

3 is a possessory lien which comes into
4 effect when the proceeds come into pos-
5 session of the attorneys and here it is
6 clear that the proceeds upon which a
7 lien is asserted came into the possession
8 of the attorneys after the filing of the
9 petition.

10 Under Section 700, the Strong
11 Arm Clause, the right of the debtor is
12 superior thereto than is the subsequent
13 lienor.

14 As far as the charging lien goes
15 and this is the basis of whatever real
16 dispute we have here, as we understand the
17 charging lien only is for the services
18 which relate to the creation of the fund.

19 As we understand it, the ser-
20 vices by definition which led to the
21 creation of this particular fund were
22 the services that were performed in and
23 resulted in the settlement.

24 The settlement was paid on the
25 15th and one later. The service had to

TRANSCRIPT OF HEARING ON 4/2/76

H. H. Brand

case or about May 1st; that parti-
cular fund.

The attorneys may have pursued
other defendants, but those services
did not result in the creation of that
fund; so it would be our position that
the charging lien is only applicable and
only applies to those services rendered
prior to May 16th.

Now, I don't have any quarrel
with counsel's suggestion that if possible
the \$25,000 which they have already re-
ceived could be applied.

I don't know when they received
that \$25,000 though.

MR. KIRSCHNER: I don't know the
date offhand. I can state for the court
that the services performed during the
period of time that they are objecting
to amounts to substantially less than
\$25,000.

MR. CLEMENT: If it is at all
legally possible, I would have no objection

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TRANSCRIPT OF HEARING ON 4/2/76

U. S. Court

we give the \$15,000 applied against the
first May 19th service and give the lien
applied before that.

I am not trying to beat them out
of a fee.

THE JUDGE: I don't think that
any of us want to beat the firm out of
a fee.

MR. ROBINSON: We withheld billing
for the services because Mr. Kelly who
was then the general counsel of Grant
asked that we wait until the \$75,000
was collected and he did this in good
faith, without contemplation of the
bankruptcy.

We did render service in con-
nection with the \$75,000 even after May
19th and even after October 2nd, because
it was dependent upon the exchange of
certain papers and so on.

The totality in relation to the
\$75,000 that we collected after May of
1975 was dependent upon our continuing

TRANSCRIPT OF HEARING ON 4/2/76

Mr. Grant

I will want to see explanation of three-
month lien after 4/10/76.

I submit that our charging lien
and retaining lien operates against the
full fund, plus we never could have col-
lected those monies unless we had held
these papers and we did hold the papers.

Grant could not have gotten those
monies. Morse makes it very clear and
therefore I submit that we ought to be
paid in full.

MR. ROCHELLE: We take the same
position as the debtor in this situation.

I think you put your finger on
the question here and that is the question
of attachment.

Is this lien able to attach to
this fund after the petition had been
filed? I think it is perhaps worth
mentioning that in situations such as these,
when special counsel are retained, their
order of retention may specifically pro-
vide for the discharging an existing

TRANSCRIPT OF HEARING ON 4/2/76

W. H. Grant

1
2
3 attorney's fees and payment for the
4 services rendered prior to the filing.
5 This is one way in which you can
6 protect themselves from situations and
7 problems such as these.

8 I think the bottom line for today,
9 at least, might be and this would be the
10 committee's position that we are not
11 far away from adjudication and under the
12 circumstances, the trustee and his coun-
13 sel should be given the opportunity to
14 make their own decision on this subject.

15 There are quite a number of
16 counsel involved in this Grant case and
17 it goes without saying that many of them
18 are going to have to wait some period of
19 time for payment because that is a fact
20 of life in the bankruptcy court.

21 I don't think there will be any
22 particular prejudice that will accrue
23 to this law firm in asking them to wait
24 while longer.

25 THE CLERK: Even if they wait,

TRANSCRIPT OF HEARING ON 4/2/76

U. S. District Court

will that be treated as a priority
claim, as a general unsecured creditor?

MR. ROSENBERG: I am not able to
foresee what the trustee will do with this
situation.

He decides that the lien is valid
and it should be paid and there will be
no further litigation.

My may feel that it is invalid
and the services that were performed
prior to the filing constitute a general
unsecured claim.

There are many possibilities here
and until the trustee and his attorneys,
whoever they may be, have an opportunity
to examine the facts and I think they are
rather complicated, we should wait until
after the adjudication.

THE JUDGE: Why is it necessary
to fragment this? The ultimate success
that Grant was looking for was the \$75,000
and if you were to treat it as a fluid
thing that finally came to an end and

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TRANSCRIPT OF HEARING ON 4/2/76

Mr. T. Grant

after the day of the filing of the petition is when the fee was really earned when the money was in hand.

MR. ROCHER: That is the real question. Analogies might well be made to liens on inventory, even in this area the law is not altogether clear, but there is some authority that if new inventory is brought in after the date of filing a pre-existing lien may attach to that in certain circumstances.

This is a violation of the prohibition of liens attached after the date of filing.

We are dealing with a situation here where the property that was already subject to the attachment at the date of filing consisted of papers and the property that came into the attorneys' possession was money and this is a real question as to whether this substitution of this kind of property is substantially the same or different or whether a lien

TRANSCRIPT OF HEARING ON 4/2/76

W. H. Jones

in action.

I think this is a very complex subject and the trustee's counsel may wish to have an opportunity to review the subject, and also look at the equities of the situation.

THE JUDGE: The equities speak for themselves.

MR. ROCHELLE: I think they clearly do and no one will dispute that.

THE JUDGE: I have a notion that the trustee and his counsel will be very, very busy in matters of greater financial significance than what we are dealing with here.

I am inclined to take the shorter route in seeing that the fees are paid, however, there is the risk of reversal if I am too cavalier about what I want to accomplish.

MR. KIRSTEINER: I say first, Your Honor, that as far as the papers that Mr. Rochelle was referring to, consist of

TRANSCRIPT OF HEARING ON 4/2/76

W. H. Grant:

the only a calculation of settlement,
the costs and mortgage and all other
relevant to secure the debt.

I am quoting in Morse again
"Rather by the attorney's fee." I
think that perhaps my somewhat adversaries
have overlooked the fact that it is all
one case.

I think the cases that talked
about an attorney's lien ending at a
certain time period related to cases
where attorneys were handling more than
one matter.

This is all the one case that we
were representing Grant in before the 11
and the same case that we are now repre-
senting them pursuant to order of special
retention.

As far as waiting for the trustee,
you are correct that the trustee will be
very busy, but as far as equity is con-
cerned, it is unfair to have us wait
the monies that we laid out so long ago

TRANSCRIPT OF HEARING ON 4/2/76

H. H. H. H.

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3 and also for the services that are per-
4 formed so long as we can I think that if
5 we do apply the \$15,000 that we received
6 from the May 15th to October 2nd for the
7 work performed which is less than the
8 \$25,000, I think that may be a way of
9 avoiding a technical problem.

10 I think we are entitled to it,
11 Your Honor.

12 MR. ROCHELLE: If you feel in-
13 clined to grant the application this
14 morning and enter the order, I think it
15 might be a good idea to save a subsequent
16 application by a trustee to extend the
17 time for appeal to an additional 20 days
18 and I think that would give the trustee
19 an adequate amount of time to determine
20 what his position may be, because the
21 trustee may decide not to appeal.

22 THE JUDGE: Are there any other
23 special counsel that you are aware of?

24 MR. ROCHELLE: No, Your Honor.

25 THE JUDGE: I will allow the

TRANSCRIPT OF HEARING ON 4/2/76

H. J. GALT

1
2
3 application and I will also advise that
4 McGowan, Miller, Robinson & Associates sub-
5 mit an order containing proposed findings
6 of fact and conclusions of law embodying
7 Mr. Gewertz' approach with respect to
8 the \$25,000, and at least put into
9 appropriate form what has been discussed
10 in the record and my own observations
11 particularly with respect to the \$75,000
12 being received after the petition was
13 filed. And I view that as more or less
14 a continuing type of service.

15 With respect to the creditors
16 committee counsel that the time to appeal
17 be extended to 30 days, I think it a
18 prudent request and that ought to be in-
19 cluded in any proposed order.

20 May don't you settle that order
21 so that all other parties will have an
22 opportunity to view it.
23
24
25

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER,

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In re

W. T. GRANT COMPANY,

Debtor.

In Proceedings for
an Arrangement

75 B 1735 (JJG)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

-----x

Liebman, Eulau, Robinson & Perlman, Special Counsel to W.T. GRANT COMPANY, the Debtor-in-Possession ("Grant"), pursuant to an order of retention dated November 14, 1975, having moved by an affidavit of Allan J. Kirschner, Esq., sworn to March 23, 1976, for an order authorizing Special Counsel to transfer to itself the sum of Thirty Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars out of the Seventy-Five Thousand (\$75,000.00) Dollars held by Special Counsel in its special account, as compensation for legal services rendered by Liebman, Eulau, Robinson & Perlman to Grant from February 14, 1975 through and including October 1, 1975 and reimbursement of expenses incurred by Special Counsel on behalf of Grant during that period, and to turn over the balance thereof, to wit, Thirty-Seven Thousand Six Hundred Thirty-Eight and 75/100 (\$37,638.75) Dollars, to Grant, and due notice of hearing on such application having been given by personal delivery to Wachtell, Lipton, Rosen & Katz, attorneys for the

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Debtor-in-Possession, and Weil, Gotshal & Manges, and Ballon, Stoll & Itzler, Co-Counsel for the Creditors' Committee of Grant, on March 25, 1976, and upon the Securities & Exchange Commission, Popper & Popper, Esqs. and Hahn, Hessen, Margolis & Ryan, Esqs., Co-Counsel for the Secured Suppliers Committee, and Debevoise, Plimpton, Lyons & Gates, Esqs., Counsel to Schroeder Trust Company, on March 30, 1976, and such application having duly come on to be argued and heard on April 2, 1976, and the Securities & Exchange Commission, Popper & Popper, Esqs., Hahn, Hessen, Margolis & Ryan, Esqs. and Debevoise, Plimpton, Lyons & Gates, Esqs. having failed to appear, and after hearing Liebman, Eulau, Robinson & Perlman, by Allan J. Kirschner, Esq. and Herbert Robinson, Esq., in support of the application, and Theodore Gewertz, Esq. of Wachtell, Lipton, Rosen & Katz, and William J. Rochelle III, Esq. of Weil, Gotshal & Manges in opposition to part of said application, and no creditor having opposed the motion at the hearing;

Upon the said application and the affidavits in support and opposition thereto, the hearing held on April 2, 1976, and all papers and proceedings heretofore had in this proceeding for an arrangement, the Court does hereby find the facts and state separately its conclusions of law thereon and makes and directs the entry of an order, as follows:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

1. On October 2, 1975, Grant filed with this Court a petition under Section 322 of Chapter XI of the Bankruptcy Act and Rule 11-6 of the Chapter XI Rules.

2. Prior to Grant's filing on October 2, 1975, Liebman, Eulau, Robinson & Perlman was engaged by Grant to represent Grant in an action entitled "W.T. Grant Company v. John A. Christensen, et al", 75 Civ. 471 (CLB) as well as in a related action instituted by Grant against the Christensens in the United States District Court for the Southern District of Connecticut (both actions are hereafter referred to as "the action") and a claim against Grant's fidelity bonding company (the "bonding claim") and had been so representing Grant since January, 1975.

3. By order of Hon. John J. Galgay, Bankruptcy Judge, dated November 14, 1975, Liebman, Eulau, Robinson & Perlman was retained as Special Counsel to Grant in the aforesaid action and bonding claim.

4. Commencing on February 14, 1975 and ending on October 1, 1975, Liebman, Eulau, Robinson & Perlman performed professional legal services, for which Grant agreed to pay at the prevailing hourly rates charged by Liebman Eulau, Robinson & Perlman, in the sum of Sixty Thousand Seven Hundred Thirty-Nine and 55/100 (\$60,739.55) Dollars, for which Liebman, Eulau, Robinson & Perlman received partial payment of Twenty Five Thousand (\$25,000.00) Dollars.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

5. In connection with the services rendered by it for which Liebman, Eulau, Robinson & Perlman seeks compensation by way of setoff, Liebman, Eulau, Robinson & Perlman incurred actual and necessary out of pocket expenses for which it has not been reimbursed from February 14, 1975 through and including October 1, 1975, in the sum of One Thousand Six Hundred Twenty-One and 70/100 (\$1,621.70) Dollars.

6. Liebman, Eulau, Robinson & Perlman has not received any other payment for the aforesaid services rendered or disbursements incurred by it on behalf of Grant during the aforesaid period.

7. A hearing on the application was held on April 2, 1976. No creditor of Grant expressed opposition to the application thereat. The attorneys for the Official Creditors' Committee and the attorneys for the Debtor in Possession expressed limited opposition to part of said application but acknowledged that the Twenty-Five Thousand (\$25,000.00) Dollars received by Liebman, Eulau, Robinson & Perlman could properly be applied to services rendered from May 16, 1975 through October 1, 1975.

8. The application seeks an order authorizing Liebman, Eulau, Robinson & Perlman to transfer to itself the sum of Thirty-Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars, which represents the fees for services rendered in the sum of Thirty-Five Thousand Seven Hundred Thirty-Nine and 55/100 (\$35,739.55) Dollars plus reimbursement for disbursements incurred on behalf of Grant in the sum of One Thousand Six Hundred Twenty-

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

One and 70/100 (\$1,621.70) Dollars, out of the Seventy-Five Thousand (\$75,000.00) Dollars which Liebman, Eulau, Robinson & Perlman is now holding in its special account, and to turn over the balance thereof, to wit, Thirty-Seven Thousand Six Hundred Thirty-Eight and 75/100 (\$37,638.75) Dollars, to Grant.

9. During the period from February 14, 1975 through and including October 1, 1975, the following hours were spent by partners, associates and paralegal employee of Liebman, Eulau, Robinson & Perlman in connection with the services rendered by it for which compensation is sought:

<u>Attorney</u>	<u>Hours</u>	<u>Rate Per Hour</u>	<u>Amount</u>
Herbert Robinson (Partner)	115.45	\$125.00	\$14,431.25
Julian S. Perlman (Partner)	3.50	125.00	437.50
Allan J. Kirschner (Partner)	150.62	100.00	15,062.00
Stanley S. Leffler (Partner)	.50	100.00	50.00
Lawrence M. Rosenstock (Associate)	17.00	75.00	1,275.00
Derek C. Brown (Associate)	2.50	65.00	162.50
Ted M. Rosen (Associate)	221.35	60.00	13,281.00
Robert Kruger (Associate)	125.00	70.00	8,750.00
Leonard Doran (Associate)	53.85	60.00	3,231.00

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Joel M. Rudell (Associate)	.95	\$ 80.00	\$ 76.00
Hon. Joseph Stone (Of Counsel)	20.00	100.00	2,000.00
Elizabeth Sawyer (Paralegal)	36.11	30.00	1,083.00
Leonard Wolfram (Outside Associate)	12.00	75.00	900.00
TOTAL -			<u>\$60,739.55</u>

10. Liebman, Eulau, Robinson & Perlman maintains records of time expended and disbursements and expenses incurred in the rendition of the professional services performed in connection with this and all other matters. These records were made concurrently with the rendition of such professional services and in the ordinary course of said law firm's business and establish that Liebman, Eulau, Robinson & Perlman spent the hours set forth in paragraph "9" of these Findings of Fact.

11. Grant is a publicly held corporation organized under the laws of the State of Delaware, the shares of which were traded on the New York Stock Exchange. Immediately prior to the filing of its Chapter XI petition, Grant was engaged in the business of operating and managing retail outlets for the sale of general lines of merchandise. At such time, Grant operated a total of 1,070 stores (533 under the name "Grant City" and 537 under the name "Grant's"). Said stores were located in 40 states and occupied a gross area of approximately 52,000,000 square feet. During

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

its fiscal year ending January 30, 1975, Grant had sales of One Million Seven Hundred Sixty-One Thousand Nine Hundred Fifty-Two (\$1,761,952.00) Dollars, making it the sixth largest retail business in the United States, exclusive of supermarket chains, and the seventeenth largest retail business overall. Prior to the filing of its Chapter XI petition, Grant had 62,000 employees.

12. The professional services for which compensation is sought by Liebman, Eulau, Robinson & Perlman's application were rendered by Liebman, Eulau, Robinson & Perlman in the following areas:

(1) Appearance before Hon. Charles L. Brieant in opposition to defendants' motion to vacate client's order of attachment;

(2) Research and preparation of memoranda of law submitted in the Connecticut action in opposition to defendants' motion to dismiss or transfer the action, and vacate attachment and injunction previously issued;

(3) Appearance at the United States District Court for the District of Connecticut and argued in opposition to defendants' motion;

(4) Conducted deposition of Christensen in the United States District Court, District of Connecticut courthouse;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(5) Preparation of Marshals' returns for order of attachment to be served upon various persons, firms, corporations and other entities throughout the United States;

(6) Numerous telephone conferences and office meetings with client, client's officers, directors and general counsel;

(7) Review of numerous documents obtained from client and others in preparation for discovery and trial;

(8) Numerous telephone conferences and office meetings with shopping center developers and their attorneys;

(9) Preparation for taking of and appearing at various depositions;

(10) Preparation of requests to produce;

(11) Numerous telephone conferences with various attorneys for defendants and with Judge Briant's chambers;

(12) Received and reviewed motion by various defendants to stay the taking of their depositions;

(13) Research and preparation of affidavits and memoranda of law in opposition to defendants' motion;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(14) Appearance before Judge Brieant in opposition to the aforesaid motion;

(15) Telephone conferences and correspondence with client's corresponding Georgia counsel in connection with depositions of and documents in possession of defendants' banks;

(16) Conducted the oral depositions of defendant Umbaugh and its employees;

(17) Received and reviewed defendants' motion to dismiss the complaint and service of process on omnibus grounds;

(18) Research and preparation of affidavits and memoranda of law in opposition to motions to dismiss;

(19) Appeared before Judge Brieant and argued in opposition to defendants' motion;

(20) Received and reviewed defendant Haines' motion to disqualify counsel and to dismiss action;

(21) Researched and prepared affidavits and memoranda of law in opposition to Haines' motion;

(22) Appeared before Judge Brieant and argued in opposition to defendant Haines' motion;

(23) Received and reviewed defendant Umbaugh's motion to take the deposition of Herbert Robinson;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(24) Researched and prepared affidavits and memoranda of law in opposition to such motion;

(25) Appeared before Judge Brieant and argued in opposition to such motion and to limit the scope of such deposition;

(26) Received and reviewed the decision of Judge Brieant dismissing Count 1 (Sherman Act) of the complaint, dismissing the complaint with leave to replead, and vacating service of process upon defendants Haines and Quinlan;

(27) Prepared motion to reargue the decision of Judge Brieant as dismissed Count 1 and vacated service of process;

(28) Researched, prepared, served and filed amended complaint including a new Count 1 for violation of the Robinson-Patman Act;

(29) Received and reviewed Umbaugh's motion for summary judgment dismissing the complaint against it;

(30) Researched and prepared answering and rejoinder affidavits and memoranda of law in opposition to Umbaugh's motion;

(31) Appeared before Judge Brieant in opposition to defendant Umbaugh's motion;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(32) Received and reviewed decision of Judge Brieant denying defendant Umbaugh's motion for summary judgment;

(33) Prepared proposed order for alternate service of process upon defendants Haines and Quinlan;

(34) Appeared before Judge Brieant and argued in support of said order, which was signed by Judge Brieant;

(35) Numerous conferences with Christensens and their New York and Connecticut attorneys re settlement;

(36) Preparation of numerous draft stipulations of settlement and related documents annexed as exhibits thereto, including deed, mortgage, confession of judgment, judgment, release of pre-judgment remedies, etc.;

(37) Attended closing of settlement with the Christensens and their attorney;

(38) Received defendant Haines' notice of appeal from the denial of his motion to dismiss this action against him or to disqualify counsel;

(39) Conferred and appeared before the staff counsel for the Second Circuit for pre-argument conference;

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(40) Received and reviewed defendant Haines' motion to remove the in camera restriction on certain exhibits;

(41) Researched and prepared affidavit and memorandum of law in opposition to Haines' motion;

(42) Appeared before Judge Brieant and argued in opposition to such motion;

(43) Reviewed the decision of Judge Brieant denying Haines' motion;

(44) Received and reviewed defendant Haines' motion before the Court of Appeals for the Second Circuit to remove the in camera restrictions of certain exhibits;

(45) Researched and prepared affidavit and memorandum of law in opposition to said motion;

(46) Received and reviewed decision of Second Circuit granting Haines' motion to remove in camera restriction;

(47) Attended to settlement of the record on Haines' appeal;

(48) Received and reviewed motions to dismiss amended complaint by defendants Haines, Quinlan and Waits and the Waits Corporation;

(49) Received subpoena from the United States Attorney and prepared documents in response to the aforesaid subpoena.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

13. By reason of the services rendered by Liebman, Eulau, Robinson & Perlman as aforesaid, Grant, its estate and its creditors have received, among other things, the following benefits:

A. Grant entered into a settlement agreement with John A. Christensen and Mavis Christensen, which resulted in Grant obtaining One Hundred and Fifty Thousand (\$150,000.00) Dollars from the Christensens; Seventy-Five Thousand (\$75,000.00) Dollars of which was received at the time of the execution of the stipulation, and Seventy-Five Thousand (\$75,000.00) Dollars after the filing by Grant for an Arrangement pursuant to the Bankruptcy Act, which Seventy-Five Thousand and (\$75,000.00) Dollars is now being held by Liebman, Eulau, Robinson & Perlman in its special account;

B. Grant received in excess of Eighty Thousand (\$80,000.00) Dollars from a shopping center developer;

C. Grant received valuable cooperation from John Christensen, its former real estate Vice-President and director, which cooperation has proved useful in further development of the action.

14. The services performed by Liebman, Eulau, Robinson & Perlman, as aforesaid, were continuing services and related in great part to the stipulation of settlement executed between Grant and the Christensens on May 16, 1975.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

15. Liebman, Eulau, Robinson & Perlman has a retaining lien upon the proceeds of the funds which came into their possession by virtue of the stipulation of settlement entered into between Grant and the Christensens.

16. Liebman, Eulau, Robinson & Perlman has a charging lien against the proceeds of the Seventy-Five Thousand (\$75,000.00) Dollars which they are now holding in their special account.

17. The services rendered by Liebman, Eulau, Robinson & Perlman from February 14, 1975 through May 16, 1975 were at least equal to Thirty Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars and the services rendered by Liebman, Eulau, Robinson & Perlman from May 16, 1975 through and including October 1, 1975 amounted to no more than Thirteen Thousand (\$13,000.00) Dollars.

18. The Twenty-Five Thousand (\$25,000.00) Dollars previously received by Liebman, Eulau, Robinson & Perlman shall first be applied to the services performed by Liebman, Eulau, Robinson & Perlman during the period from May 16, 1975 through and including October 1, 1975 and the balance thereof shall be applied to the services performed from February 14, 1975 through and including May 16, 1975.

19. The Thirty-Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars out of the Seventy-Five Thousand (\$75,000.00) Dollars which is now being held in Liebman, Eulau, Robinson & Perlman's special account shall be applied to the services and disbursements incurred on behalf of Grant for the period commencing February 14, 1975 through and including May 16, 1975.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

20. The failure to award the fee sought by this application under the circumstances presented here would work undue economic hardship upon Liebman, Eulau, Robinson & Perlman. The Court finds that despite the fees previously received by Liebman, Eulau, Robinson & Perlman, the rendition of the services set forth in this application by said firm without further payment for the period for which compensation is sought has had and will continue to have an adverse effect upon the cash flow of Liebman, Eulau, Robinson & Perlman, which in equity, such firm should not be compelled to bear. Such adverse effect upon the cash flow arose in part because, due to the firm's extensive involvement with Grant, it was effectively precluded from engaging in certain other matters which would have generated income on a current basis.

21. The Court notes that Liebman, Eulau, Robinson & Perlman should not be required to finance the proceedings for the benefit of the creditors of the estate, and that the failure to award an interim fee in this case would result in an unjust enrichment of the creditors at the expense of such firm.

22. The Court also finds that the estate of Grant has ample cash available to pay the allowance and reimbursement requested by this application, and that in fact the payment is being made from funds which are presently being held by Liebman, Eulau, Robinson & Perlman. The Court has been advised that as of March 30, 1976, Grant has cash on hand of approximately Four Hundred and Six Million (\$406,000,000.00) Dollars.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

23. The Court finds that in view of:

- (a) the benefit to Grant and to the estate from the services for which compensation is sought as set forth in finding "13" above;
- (b) the fact that the amount of fee requested in is secured by a charging and retaining lien;
- (c) the fact that the fee is being paid out of funds being held pursuant to attorneys' liens by Liebman, Eulau, Robinson & Perlman;
- (d) the reasonableness of such fee,

the amount requested is reasonable.

CONCLUSIONS OF LAW

1. This Court has authority to grant the requested compensation and reimbursement of expenses to Liebman, Eulau, Robinson and Perlman, whether or not a plan of arrangement is confirmed.

2. The services involved were beneficial to Grant, to its estate, and to its creditors.

3. The compensation and reimbursements sought are reasonable and necessary.

4. The application is in compliance with Bankruptcy Rule 219 made applicable to Chapter XI by Rule 11-31 and with the applicable local rules.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

5. By virtue of the services performed by Liebman, Eulau, Robinson & Perlman and the Seventy-Five Thousand (\$75,000.00) Dollars it is now holding in its special account, Liebman, Eulau, Robinson & Perlman has a charging and retaining lien on said funds to the extent of Thirty-Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars.

6. There is nothing in the Bankruptcy Act or Bankruptcy Rules, including the Chapter XI Rules, or in the case law, which prohibits the award sought.

7. Under the circumstances presented in this application, the entry of the February 12, 1976 liquidation order and the impending adjudication of Grant as a Bankrupt does not affect the power of this Court to make the award sought by Liebman, Eulau, Robinson & Perlman pursuant to their charging and retaining liens and does not furnish a sufficient reason for this Court to refuse to render such an award.

8. The Twenty-Five Thousand (\$25,000.00) Dollars previously received by Liebman, Eulau, Robinson & Perlman shall first be applied to the services performed by Liebman, Eulau, Robinson & Perlman for the period from May 16, 1975 through and including October 1, 1975 and the balance thereof shall be applied to the services performed by Liebman, Eulau, Robinson & Perlman for the period from February 14, 1975 to and including May 16, 1975.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

9. Under the circumstances presented in this application, as set forth in the findings of fact, this Court concludes that the award sought is fully warranted and that it would be inequitable not to make such an award.

10. Under the circumstances presented in this application, as set forth in the findings of fact, this Court, in its discretion, concludes that the allowance to Liebman, Eulau, Robinson & Perlman should be in the amount of Thirty-Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.15) Dollars of which Thirty-Five Thousand Seven Hundred Thirty-Nine and 55/100 (\$35,739.55) Dollars represents fees incurred and One Thousand Six Hundred Twenty-One and 70/100 (\$1,621.70) Dollars represents unpaid disbursements.

11. The application authorizing the turnover of Thirty-Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars out of the Seventy-Five Thousand (\$75,000.00) Dollars that Liebman, Eulau, Robinson and Perlman is now holding in their special account is granted.

IT IS SO ORDERED, and Liebman, Eulau, Robinson & Perlman is hereby authorized and directed to transfer to themselves the sum of Thirty Seven Thousand Three Hundred Sixty-One and 25/100 (\$37,361.25) Dollars out of the Seventy-Five Thousand (\$75,000.00) Dollars that they are now holding in their special account and to turn over the

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

balance thereof, to wit, Thirty-Seven Thousand Six Hundred Thirty-Eight and 75/100 (\$37,638.75) Dollars to Grant within ten (10) days of the entry of this order;

IT IS FURTHER ORDERED, that pursuant to Rule 802(c) of the Rules of Bankruptcy Procedure, the time to appeal from this order is extended until thirty (30) days from the date of entry of this order.

Dated: New York, New York.
April 1976.

Bankruptcy Judge

LETTER OF WILLIAM J. ROCHELLE, III, MAILED }
DATED 4/20/76 DELV } 57

HAND DELIVERY

April 20, 1976

The Honorable John J. Galgay ^{W. G. & M.}
Bankruptcy Judge
United States Courthouse
Room 230
Foley Square
New York, New York

Re: W. T. Grant Company - 75 B 1735
Proposed Findings of Fact by
Liebman, Eulau, Robinson & Perlman

Dear Judge Galgay:

We are writing to comment upon the proposed findings of fact and conclusions of law served by the firm Liebman, Eulau, Robinson & Perlman pursuant to the court's direction at the close of the hearing held on April 2, 1976.

Basically, we feel that the proposed findings go beyond the record before the court and include unnecessary inferences and conclusions. Should the court be inclined to grant the relief sought, we feel, as co-counsel for the trustee in bankruptcy, that the court should enter a simple order authorizing the payment of compensation and extending the time to appeal for an additional twenty days under Bankruptcy Rule 802(c).

We object in particular to paragraph 7 of the proposed findings of fact. We feel that this paragraph does not accurately reflect the position taken by the Creditors' Committee. We would suggest that paragraph 7 be stricken and that the record be allowed to speak for itself.

We are also concerned with the finding of fact set forth in paragraph 22. There, applicant says "that the estate of Grant has ample cash available to pay the allowance and reimbursement requested by this application. . . ." The paragraph goes on to state that the estate has in excess of \$400,000,000 in cash on hand. We feel this paragraph is misleading since Grant's secured creditors may assert a lien over essentially the entire estate. Therefore, we feel that the court, at this time, should avoid an unqualified finding that there is ample unencumbered cash to pay all expenses of administration.

The Honorable John J. Galgay
April 20, 1976
Page Two

LETTER OF WILLIAM J. ROCHELLE, III,
DATED 4/20/76

We object to paragraphs 15 and 16 of the proposed findings of fact which state that the Liebman, Eulau firm has a retaining lien and charging lien. These statements are, if anything, conclusions of law. At the April 2 hearing it was the position of the Creditors' Committee that a substantial question exists about whether an attorney's lien could attach after the date of filing a Chapter XI petition.

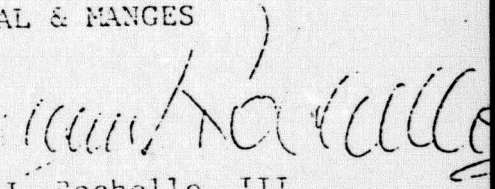
Finally, we feel it would be unnecessary for the court to find the facts in paragraphs 21 and 22. The situation of the Liebman, Eulau firm is not substantially different from that of any other attorneys who provide services to a debtor, debtor-in-possession, or trustee in bankruptcy. Any delay that Liebman, Eulau has experienced in recovering its fees would not justify concluding that withholding a fee "would result in an unjust enrichment to the creditors" of the Grant estate.

For the foregoing reasons, we respectfully submit that an order alone would be adequate and that extensive findings of fact are inappropriate. Should the Trustee decide to appeal any order that this court might enter, we have advised the Trustee that his rights are adequately protected by the record already before this court.

Respectfully,

WEIL, GOTSHAL & MANGES

By


William J. Rochelle, III

WJR:pas

cc: Liebman, Eulau, Robinson & Perlman
Wachtell, Lipton, Rosen & Katz
Ballou, Stoll & Itzler

bcc: Harvey R. Miller

JUDGE GALGAY'S MEMORANDUM OPINION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x	:	
In re	:	In Proceedings for an
	:	Arrangement
	:	
W.T. GRANT COMPANY,	:	No. 75 B 1735
	:	
Debtor.	:	
	:	<u>MEMORANDUM OPINION</u>
-----x	:	
<u>JOHN J. GALGAY - Bankruptcy Judge</u>		

I have carefully examined the application of the law firm of Liebman, Eulau, Robinson and Perelman in connection with legal services performed as special Counsel to the Debtor and Debtor-in-possession in the above captioned proceedings.

The applicants claim to have spent about 759 hours of professional time on this matter. For these services, \$60,739.55 is requested.

In the instant application, I am impressed with the results of the services rendered by Liebman, Eulau insofar as W.T. Grant has received the combined benefit of \$230,000.00 from a settlement agreement and negotiations with a shopping center developer.

Calculation of the hours spent and the amounts requested as set forth in the petition before this court indicate a mixed hourly rate of approximately \$80.00. It is unusual under the circumstances that the services of six associates, a paralegal,

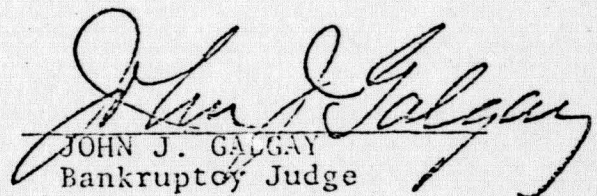
JUDGE GALGAY'S MEMORANDUM OPINION

and one outside counsel could be efficiently used without some danger of duplication of services particularly in light of the substantial time contributed by two partners of the firm. In this regard, I am guided by the criteria traditionally used in evaluating and fixing fees, including the benefit derived by the estate and the complexity of the problems involved and the universally accepted principle of economy in the administration of bankruptcy cases. In re Eureka Upholstery Co. 1931, 2 Cir., 48 F.2d 95, 96; In re Hudson & Manhattan R.R. 339 F.2d 114, 2 Cir. 1964. Nazareth Fair Grounds and Farmers Market, Inc. 374 F.2d 598, 2 Cir. 1967 and Matter of Jack Borgenicht C.A. 2d, 470 F.2d 283 (1972).

In turn I find that a fair and reasonable fee for services performed by Special Counsel for the Debtor and Debtor-in-possession, considering the \$25,000 retainer already received, to be \$25,000 for a total of \$50,000, plus disbursements of \$1,621.70.

SO ORDERED.

DATED: New York, New York
May 13th 1976


JOHN J. GALGAY
Bankruptcy Judge

LETTER OF HERBERT ROBINSON,
DATED 5/19/76

LIEBMAN EULAU ROBINSON & PERLMAN

NEW YORK, N.Y. 10007

HERBERT ROBINSON
LIEBMAN EULAU ROBINSON & PERLMAN
ATTORNEYS AT LAW
100 EAST 57TH STREET
NEW YORK, N.Y. 10022
TELEPHONE 2-5535
TELEX 2-5535

100 EAST 57TH STREET
NEW YORK, N.Y. 10022

TELEPHONE 2-5535
TELEX 2-5535

May 19, 1976

Hon. John J. Galgay
Bankruptcy Judge
United States District Court
Southern District of New York
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: In the Matter of W.T. Grant Company
No. 75 B 1735

Honorable Sir:

We respectfully request reconsideration of the allowance awarded to us pursuant to your memorandum opinion and order dated May 13, 1976, on the grounds that such memorandum opinion and order failed to take into account the retaining and charging liens which my firm possesses and that such opinion is contrary to your ruling on April 2, 1976 where Your Honor specifically stated:

"THE JUDGE: I will allow the application"
(Transcript pp. 19-20)

Your Honor's "decision" or "ruling" at that time was in accord with the views taken by all of the parties represented at that hearing. Indeed, pursuant to Your Honor's direction, we prepared and filed elaborate findings of fact, the time for which is totally non-compensable.

The actual award of \$25,000 represents a reduction of more than 40% from the amount requested and is approximately 50% less than our standard charges during the year 1975. Moreover, the rate charged by me in the aforesaid application was computed on the basis of \$25.00 an hour less than my prevailing charges during that year.

LETTER OF HERBERT ROBINSON,
DATED 5/19/76

Hon. John J. Calvey

May 19, 1976

Your Honor may also be under a misapprehension as to the nature and extent of the services rendered. Unfortunately, since no one raised the issue, it was not discussed at the April 2, 1976 hearing. During the early stages of this matter, more than eight attorneys rendered independent services. Each separate attorney was gathering and compiling information concerning a particular defendant or potential defendant. At that time we were all working under urgent time pressures.

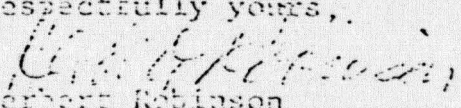
Subsequently I was primarily engaged in legal research, further fact gathering and negotiations with some of the defendants, as well as in the preparation of responsive papers to motions directed against the complaint, etc. Another partner and a number of associates were conducting legal research, drafting affidavits and briefs, etc. Any overlapping was minimal indeed. The hours of service relied upon were all reasonable and necessary and should have been credited in full, without the "discount" that was apparently applied because of Your Honor's assumption of substantial overlapping.

Inasmuch as a very large percentage of the services were performed by myself and my partner, Allan J. Kirschner, during a period when my standard time charge for such matters was \$150.00 per hour and Mr. Kirschner's was \$100.00 per hour, it is readily apparent that we have been dealt a severe blow by this very sharp reduction in allowance.

Although we are preparing and filing a notice of appeal as a precautionary device, we do not wish to devote additional and non-compensable services with regard to this fee application. Since the services rendered were all reasonable and necessary and not objected to by any interested party, and since we have an attorneys' charging and retaining lien, we submit that Your Honor's original determination granting the allowance as requested was proper and correct.

Therefore, I respectfully request favorable reconsideration and the granting of the full \$37,361.25 sought or an opportunity to confer with Your Honor again, together with all other interested parties, upon proper notice.

Respectfully yours,


Herbert Robinson

KRM:AK

For LIEBMAN, EULAU, ROBINSON & PERLMAN

c/ Mitchell, Lipton, Rosen & Katz, Esqs.
Weil, Gotshall & Manges, Esqs.
Barton, Stoll & Adler, Esqs.

ORDER AUTHORIZING RETENTION OF
SPECIAL COUNSEL, DATED 6/28/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re :
W. T. GRANT COMPANY, : Bankruptcy No. 75 B 1735
Bankrupt. :
-----x

ORDER AUTHORIZING RETENTION OF LIEBMAN,
EULAU, ROBINSON & PERLMAN AS SPECIAL COUNSEL

Upon the annexed application of Charles G. Rodman, as Trustee of the Estate of W. T. Grant Company, Bankrupt, dated June 7th, 1976, for an order authorizing the retention of the firm Liebman, Eulau, Robinson & Perlman ("Liebman, Eulau"), as special counsel to render the legal services set forth in the annexed application, and upon the annexed affidavit of Herbert Robinson, a member of the Liebman, Eulau firm, sworn to May 20, 1976, ("Robinson affidavit"), and the court being satisfied that said attorneys represent no interests adverse to the estate herein or its creditors, no notice need be given, no adverse interest having been represented, and sufficient cause appearing therefor, it is

ORDERED that the Trustee be, and he hereby is, authorized to retain and employ Liebman, Eulau as special counsel to render the legal services described in the annexed application and in the Robinson affidavit; and it is further

ORDERED that the compensation of said attorneys for the legal services rendered shall be as hereafter fixed by this court upon application being made therefor; and it is further

ORDER AUTHORIZING RETENTION OF
SPECIAL COUNSEL, DATED 6/28/76

ORDERED that by entering this order, the court is not bound by the statements in paragraph 11 of the Robinson affidavit and is free to fix compensation at what the court finds to be fair and reasonable.

Dated: New York, New York
June 28, 1976

1st John J. Gilguy

Bankruptcy Judge

APPLICATION FOR ORDER
AUTHORIZING RETENTION
OF SPECIAL COUNSEL,
DATED 6/22/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re :
W. T. GRANT COMPANY, : Bankruptcy No. 75 B 1735
Bankrupt. :
-----x

APPLICATION FOR ORDER AUTHORIZING
RETENTION OF LIETMAN, EULAU, ROBINSON
& PERLMAN AS SPECIAL COUNSEL

TO THE HONORABLE JOHN J. GALGAY, BANKRUPTCY JUDGE:

The application of Charles G. Rodman, as Trustee of the Estate of W. T. Grant Co., Bankrupt, respectfully represents:

1. On October 2, 1975, W. T. Grant Co. ("Grant") filed a petition for an arrangement under Chapter XI, Section 322 of the Bankruptcy Act and Chapter XI Rule 11-6. Thereafter, and by order dated April 13, 1976, Grant was adjudged a bankrupt under the Bankruptcy Act.
2. On November 19, 1975, applicant was elected Stand-by Trustee in accordance with Chapter XI Rule 11-27. On April 13, 1976, applicant qualified as Trustee herein and has since acted in that capacity.
3. At the time Grant filed its petition for an arrangement, it was engaged in the business of operating and managing a chain of retail outlets for the sale of general lines of merchandise. Grant operated a total of 1,070 stores in forty states and employed approximately 65,000 persons.
4. In 1975, Grant became aware of a problem involving certain Grant employees and others who were, it was alleged, obtaining secret profits and kickbacks with an intent to defraud Grant. In the course of an ensuing investigation, Grant deter-

APPLICATION FOR ORDER
AUTHORIZING RETENTION
OF SPECIAL COUNSEL,
DATED 6/22/76

mined that the problem involved the execution, cancellation, transfer, or assignment of store leases from which the individuals involved allegedly received secret profits and kick-backs.

5. Prior to the filing of Chapter XI petition, Grant retained the firm Liebman, Eulau, Robinson & Perlman ("Liebman, Eulau") as special counsel to assert any claims and conduct any litigation against persons who might be liable to Grant as a result of the matters discussed above. Liebman, Eulau thereafter commenced an action entitled W. T. Grant Company vs. John A. Christensen, Mark S. Haines, Daniel Quinlan, et al. (Civil Action No. 75 Civ. 471 CLB) and filed a related proof of claim on Grant's behalf with Home Insurance Company.

6. The legal services which have been rendered to Grant to date by the Liebman, Eulau firm are also set forth in the annexed affidavit of Herbert Robinson, a member of Liebman, Eulau, sworn to May 20, 1976 ("Robinson affidavit"). As stated in the Robinson affidavit, the Liebman, Eulau firm was retained by the debtor-in-possession pursuant to an order of the court dated November 14, 1975. Since the continued prosecution of the actions described herein and in the Robinson affidavit could result in substantial settlements or judgments entered on behalf of the estate, applicant has determined that Liebman, Eulau should be retained to continue these cases and assert any other claims that the estate may have arising out of the matters described above.

7. Applicant believes that the services of special counsel are necessary for the protection of the estate herein and the interest of creditors. Applicant submits that the familiarity of the Liebman, Eulau firm with the matters described

APPLICATION FOR ORDER
AUTHORIZING RETENTION
OF SPECIAL COUNSEL,
DATED 6/22/76

in the Robinson affidavit makes that firm particularly qualified to render legal services to applicant. By the continued retention of Liebman, Eulau, the necessary legal services can be rendered at the least possible cost and with the greatest efficiency.

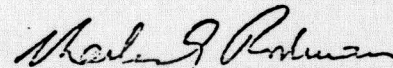
8. The Liebman, Eulau firm has indicated a willingness to act as special counsel for applicant, to render the legal services described herein, and, upon performance of such services, to submit an application for compensation to the court. To the best of applicant's information, knowledge and belief, Liebman, Eulau represents no interest adverse to the estate herein with respect to the matters for which it is to be retained, except as may be set forth in the Robinson affidavit. Applicant also notes that by an order entered on May 13, 1976, this court ruled on Liebman, Eulau's application for the allowance of compensation for services rendered primarily before the filing of Chapter XI petition. Claiming to have the benefit of a retaining lien and charging lien, Liebman, Eulau sought an allowance in the amount of \$60,739.55. In the order of May 13, this court found that the fair and reasonable fee for services performed for Grant and the debtor-in-possession was a total of \$50,000, plus disbursements of \$1,621.70. Applicant is informed that Liebman, Eulau has appealed from the May 13 order and is asking that it be allowed compensation in the full amount sought. Applicant does not believe that the pendency of Liebman, Eulau's appeal should be considered as an interest adverse to the estate. Applicant has been informed by Liebman, Eulau that the appeal will not hinder or influence the firm in representing the interests of the estate.

APPLICATION FOR ORDER
AUTHORIZING RETENTION
OF SPECIAL COUNSEL,
DATED 6/22/76

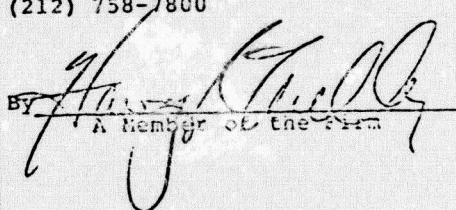
9. Except for the application for the order of November 14, 1975, authorizing the retention of Liebman, Eulau by the debtor-in-possession, no previous application for the relief sought herein has been made to this or any other court.

WHEREFORE, applicant respectfully requests that an order be entered authorizing the retention of Liebman, Eulau as special counsel to perform the legal services described above and in the annexed affidavit and granting such other and further relief as is just.

Dated: New York, New York
June 22, 1976


Charles G. Rodman, as Trustee
of the Estate of W. T. Grant
Company, Bankrupt

WEIL, GOTSHAL & MANGES
Attorneys for the Trustee
767 Fifth Avenue
New York, New York 10022
(212) 758-7800

BY 
A Member of the Firm

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re
W. T. GRANT COMPANY,
Debtor.

No. 75 B 1735 (JJG)

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

HERBERT ROBINSON, being duly sworn, deposes and says:

1. I am a member of the firm of Liebman, Eulau, Robinson & Perlman, Special Counsel to W.T. Grant Company, as Debtor in Possession ("Grant") pursuant to the order of Hon. John J. Galgay, Bankruptcy Judge, dated November 14, 1975, in the action entitled "W.T. Grant Company v. John A. Christensen, et al", 75 Civ. 471 (CLB) pending in the United States District Court for the Southern District of New York (hereinafter referred to as the "action") and a claim against Grant's fidelity bonding company (hereinafter referred to as to as the "bonding claim"). I submit this affidavit in support of the application to continue the retention of my firm as special counsel, after the adjudication of Grant.

2. As set forth in my prior affidavit, sworn to November 6, 1975 (submitted in support of the application to retain my firm as special counsel) the action was commenced on January

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

31, 1975 and seeks damages against several former high level fiduciaries, employed in Grant's real estate department, who were charged with the responsibility of negotiating leases, selecting sites and recommending the lease price for Grant's shopping centers. Also named as defendants are a group of real estate developers which allegedly paid bribes and kickbacks to the aforesaid real estate directors in order to obtain Grant's business.

3. The original complaint included a cause of action arising under the anti-trust laws of the United States, as well as certain pendent claims relating to fraud, breach of fiduciary duty, commercial bribery and breach of and interference with contracts. However, Hon. Charles L. Brieant held that Grant was not the "target" of the alleged anti-trust violations and therefore did not have the requested standing to maintain an anti-trust action. Our motion on behalf of Grant to reargue the aforesaid dismissal was granted and the decision on the motion for reargument is now sub judice. In the event Judge Brieant adheres to his original determination, we would recommend that an appeal be taken from the dismissal of the anti-trust action.

4. We are familiar with the facts relating to this action and are of the opinion that Grant has a meritorious cause of action against its former real estate executives as well as against the shopping center developers which paid the illegal bribes to those fiduciaries.

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

5. Our firm has great familiarity with the issues of fact and law relating to this type of litigation, having handled matters involving commercial bribery for the past 23 years. In addition, I have lectured on commercial bribery before various organizations including lawyers, bankers, and business executives in various parts of the United States.

6. Moreover, as stated supra, my firm represented Grant in this action since its inception. Accordingly, we are fully familiar with the nature of the action, the documentary evidence including copies of checks received by the former employees from the shopping center developers, as well as the other numerous documents which we believe establish liability in favor of Grant, and other facts not set forth in documentary form.

7. As set forth in the affidavit of my partner, Allan J. Kirschner, sworn to March 23, 1976, submitted in support of my firm's application to transfer to ourselves a certain portion of the funds which we are holding in our special account, and as recognized by Judge Galgay in his memorandum opinion and order dated May 13, 1976, Grant has already received at least Two Hundred and Thirty Thousand (\$230,000.00) Dollars from one real estate fiduciary and one developer, by reason of our services.

8. In addition, it is necessary that we be retained as expeditiously as possible since defendant, Mark S. Haines, and defendant, John Waits, and the other defendant-developers

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

that were owned or controlled by him, have informed Judge Brieant and our office that they will not proceed with the litigation until the Trustee is substituted as the party plaintiff. Although we informed those attorneys that the Bankruptcy Act and rules do not require such substitution, defendant Haines defaulted in appearing for a Court ordered deposition in aid of the order of attachment previously obtained by us on behalf of Grant. Our motion for sanctions pursuant to Rule 37 of the Federal Rules of Civil Procedure is scheduled to be argued before Judge Brieant within the week.

9. Moreover, my firm has made demands for restitution upon numerous other real estate developers which we believe paid illegal kickbacks to Grant's real estate executives.

10. In addition, we have been representing Grant in a claim under its fidelity bond against Home Insurance Company, the carrier, for losses resulting from the dishonesty of its real estate executives, acting alone and in collusion with each other, as well as in collusion with shopping center developers. We have compiled and presented to the Home Insurance Company a proof of loss in the amount of Two Million Two Hundred and Four Thousand Five Hundred Sixty-Three and 49/100 (\$2,204,563.49) Dollars, reserving the right to file amended proofs of loss as may be necessary. We are of the opinion that Grant has a valid and meritorious claim on its fidelity bond, although we are unable at this

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

time to give any assurance as to the amount of loss that will be established or as to the amount of any recovery.

11. My firm would agree to continue to represent Grant as a bankrupt upon payment to us in accordance with our prevailing time charges in effect at the time such services are rendered, except that my time charge shall be One Hundred Twenty-Five (\$125.00) Dollars instead of One Hundred Fifty (\$150.00) Dollars per hour, which is my prevailing rate in matters relating to commercial bribery. My firm's time charges now range from Sixty-Five (\$65.00) Dollars per hour for associates to One Hundred Fifty (\$150.00) Dollars per hour for my time. Other senior partners are billed at One Hundred Twenty-Five (\$125.00) Dollars per hour. However, as stated earlier, I agreed to limit my compensation on this matter to One Hundred Twenty-Five (\$125.00) Dollars per hour. Paralegal services are billed at Thirty (\$30.00) Dollars per hour.

12. We intend to apply to the court for an interim allowance on account of legal services rendered and disbursements incurred from the time that Grant filed its petition less the Ten Thousand (\$10,000.00) Dollar retainer already received pursuant to this Court's prior order of retention.

13. As set forth in my aforesaid November 6, 1975 affidavit, my firm has not entered into any agreement express or implied with any other party in interest, including the debtor or bankrupt, any creditor, or any representative of them, or any attorney of such party in interest for the purpose of fixing the fees or other compensation to be paid my firm, or to such party

AFFIDAVIT OF HERBERT ROBINSON
IN SUPPORT OF APPLICATION,
DATED 5/20/76

in interest for services rendered or expenses incurred in connection therewith from the assets of the estate in excess of the compensation allowed by law.

14. Other than the Ten Thousand (\$10,000.00) Dollar retainer paid to my firm as special counsel pursuant to the aforesaid order of Bankruptcy Judge Galgay dated November 14, 1975, which sum was an advance retainer for services performed by us after the filing of this proceeding, no payments have been made or promised to my firm for services rendered or to be rendered by my firm as special counsel in this proceeding.

15. No agreement or understanding exists between my firm and any other person for the sharing of compensation to be received for services rendered or in connection with such proceeding.

WHEREFORE, it is respectfully requested that this application by the Trustee in Bankruptcy to retain the firm of Liebman, Eulau, Robinson & Perlman as special counsel in connection with the continuation of the aforesaid action and bonding claim, in accordance with the fee arrangement set forth in this affidavit, be granted.

Herbert Robinson
HERBERT ROBINSON

Sworn to before me this
20th day of May, 1976.

Carole Kaplan

ARLE EULAU
NOTARY PUBLIC, State of New York
No. 41-7187225
Qualified in Queens County,
Commission Expires March 20, 1978

ORDER OF JUSTICE DUFFY DISMISSING
APPEAL, ENTERED 10/12/76

MEMO, ENDORSED--

ENDORSEMENT

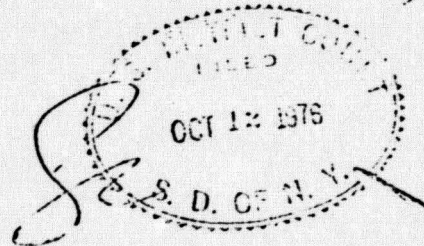
In re W.T. Grant Company 75 B 1735

The Bankruptcy Judge may have been overly generous but his award was not an abuse of discretion. The appeal is dismissed as frivolous.

It is so ordered.

Reuben Thomas Duffy
REUBEN THOMAS DUFFY, U.S.D.J.

New York, New York
October 12, 1976



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ORDER OF JUSTICE DUFFY GRANTING/
MOTION TO REARGUE BUT ADHERING
TO ORIGINAL DETERMINATION,
ENTERED 11/29/76

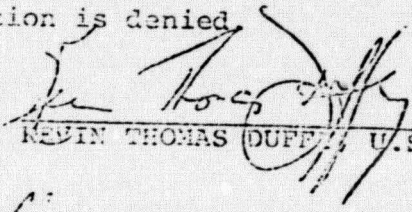
ENDORSEMENT

In re W.T. Grant Company, Lieberman, Dulau, Robinson
& Perlman, Execs. v. Rodman. 75 B 1736

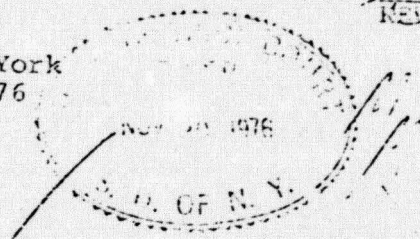
The motion to reargue is granted. On reconsideration I adhere to my original determination that the Bankruptcy Judge has not abused his discretion. Although the Bankruptcy Judge allowed less than the full amount of fees requested by appellant, appellant will have received a more than generous percentage of the fees claimed to have been earned.

On reargument, appellant's motion is denied.

It is so ordered.


KEVIN THOMAS DUFFY, U.S.D.J.

New York, New York
November 24, 1976



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